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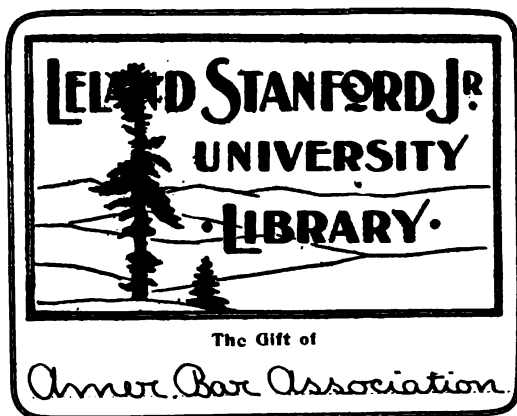
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# REPORT

OF THE

## TWENTY-FOURTH ANNUAL MEETING

OF THE

# American Bar Association

HELD AT

DENVER, COLORADO,

*August 21, 22 and 23, 1901.*

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TWENTY-FIFTH ANNUAL MEETING

WILL BE HELD AT  
SARATOGA SPRINGS, NEW YORK,

*On Wednesday, Thursday and Friday,  
August 27, 28 and 29, 1902.*



Q 56462

TRANSACTIONS  
OF THE  
TWENTY-FOURTH ANNUAL MEETING  
OF THE  
American Bar Association,

HELD AT  
DENVER, COLORADO,

AUGUST 21, 22 AND 23, 1901.

*Wednesday, August 21, 1901.*

The Twenty-fourth Annual Meeting of the American Bar Association convened in the Tabor Grand Opera House, Denver, Colorado, on Wednesday, August 21, 1901, at 10.30 A. M.

The meeting was called to order by Charles F. Manderson, of Nebraska.

Charles F. Manderson, of Nebraska:

Gentlemen of the American Bar Association, I congratulate you that under such pleasant auspices you have met in this beautiful city of the mountain and the plain. It is my pleasure, as I know it will be yours to have me introduce the President for the year 1901, Mr. Edmund Wetmore, of New York.

The President:

Gentlemen, I thank you for your kindly greeting, and my distinguished predecessor for his gracious introduction.

Before proceeding with the annual address, the Colorado State Bar Association, represented by Mr. Platt Rogers, and

the Denver City Bar Association, represented by Mr. Hugh Butler, are here to welcome us.

Platt Rogers, of Colorado :

Mr. President and gentlemen of the American Bar Association, it greatly pleases the members of the Colorado Bar Association to behold the members of the American Bar Association at last assembled in the city of Denver. I say at last, because it has seemed to us that you should have come long before. However, I suppose it is but another instance of the law's delay.

Of course, you have all come properly armed. It is not necessary that you should be completely equipped as formerly. Mr. Roosevelt has been here several times. He tackled all the varmints in the western part of the state, but omitted the tiger in Denver, thereby indicating that the strenuous life is not without its element of political caution.

While you are here we expect you to have a good time, a royal good time, but let me caution you, if you should discover any tendency to dizziness or uncertainty in your movements, not to charge it to the altitude or the thinness of the atmosphere. That sort of a story may go in the east, but out here we know that the thinness is not in the atmosphere.

If your social gatherings should chance to break up late at night, and you should discover at the street corners the unusual spectacle of two arc lights, do not be frightened; they are both there. It is merely a way we have of spending our surplus money. One contract for electric light is usually enough for a town, but we can stand two. You are not to take this observation as an explanation of all cases in which you may see double. On the contrary, the rule obtains here, as well as in the east, that if upon leaving the club in the early morning you discover two carriages awaiting you, you will take the first one; the second isn't there.

Again, I assure you that you are welcome, but I must add that while we are prepared to welcome the coming, we are equally prepared to speed the parting guests. We have our

full complement of attorneys in this state already, and any considerable addition from members of the American Bar Association would completely demoralize the industry. Besides, you who have climbed to the twenty-eighth story in the practice of the profession would very soon render us unable to attend even a local bar meeting.

Whatever you see while here that strikes your fancy is yours—when paid for—and we trust that if you are not able to buy a mine, which we understand some of the members of the Colorado Bar Association might be able to sell you if you insist, you will at least carry away with you the recollection of the most instructive and agreeable meeting of the American Bar Association that you have ever attended.

Hugh Butler, of Colorado :

Mr. President and gentlemen of the American Bar Association : It was my purpose to deliver a written address of welcome. I understood that my distinguished friend and predecessor, who has just addressed you, had prepared a long oration. In order to compete with him I came with a manuscript of equal length, as I supposed. I find, however, much to my gratification, that he has satisfied himself with a brief address, eloquent, appropriate and fitting, and I therefore simply say, without any other address, that the Denver Bar Association joins in a cordial welcome to the American Bar Association.

It is difficult to make a speech of welcome unless one indulges more or less in self-glorification. I might speak of these grand and massive mountains, I might speak of our very many natural attractions, and I might speak of our beautiful and magnificent city of Denver, but, in my judgment, it is better to let the handiwork of nature and the handiwork of man speak in their own eloquent way, contenting ourselves with a simple but sincere welcome to our visitors from the North, the East, the West and the South who on this occasion constitute the American Bar Association.

I therefore, without further remarks, conclude by saying, Welcome, Welcome to the city of Denver and State of Colorado.

The President:

Mr. Rogers, and brethren of the State Bar Association of Colorado, and Mr. Butler, and our brethren of the Denver Bar Association:

We tender to you our warmest acknowledgment for the welcome so gracefully extended, and we accept your hospitality as frankly as it is freely given. I cannot say that it comes to us as a surprise. The boundless hospitality of the West is known the world over, but we in our own persons have already found out by the invitation we received some time ago, how wide open our brethren of Colorado throw their gates to their guests, for not only do you welcome us to your capital city and its pleasures, but offer, under your guidance, to show us the beauties and the glories of your magnificent state. We who come from the sea coast have been in the habit of speaking of the far West, but it is "far" no longer; time has annihilated distance, and the roads that were traveled over by the pioneers in the slow-moving wagon trains are now traversed so swiftly by the flying coaches that brought us hither, that you are no longer the far, but the near, West. You have become our very good neighbors, and we thought it was pleasant just to come and pay you a neighborly visit.

We do not come here ignorant of Colorado's history. The birthday of Colorado as a state and the birthday of this Association were almost coëval. You are but two years our seniors, and those who are so nearly twins, naturally feel an interest in each other. While not unmindful of the magnificent results of your energy and enterprise, of all that has been done in Colorado, of the rapid transformation of the mining camp into a great, rich and populous city, and the hidden treasure in your mountains into the ready wealth of your citizens, yet we, as lawyers, are most interested in the development of the law of Colorado. It must be, I presume, within the memory of

the oldest members of your Bar that the territorial courts were first organized, and certainly it cannot be more than some thirty years ago ere the Court House followed the settlers' cabin to this place, and yet within that time the twenty odd volumes of the Reports of the Colorado Supreme Court, made weighty and instructive by the opinions of your judges from Chief Justice Thatcher onward, constitute a body of law cited with respect in the courts of your sister states, and form a contribution to jurisprudence of which not only yourselves, but we, as American lawyers, may well feel proud.

But I will not take up the time of my fellow-associates, which, after what we have heard from Mr. Rogers, is all too short to take in all the things that have been generously provided for us, by any longer extended oral acknowledgment. It will be better to let you see our enjoyment rather than to expatiate upon it. In the name of my associates we extend the right hand of fellowship to our brethren of the Colorado and of the Denver Bar Associations; and, once more, we thank you for your generous greetings, and for the welcome that you have extended to us.

The President then delivered the President's Address.

*(See the Appendix.)*

The President:

The first regular business, gentlemen, is the nomination and election of new members.

New members were then elected.

*(See List of New Members.)*

The President:

I will ask the Secretary to read the list of delegates from State Bar Associations.

The list of delegates from Bar Associations was then read by the Secretary.

*(See List of Delegates.)*

The President:

It is usual that some committees be appointed, namely, Committees on Auditing, Publications and Reception. The

Secretary will read the list of the gentlemen appointed on the several committees.

The Secretary :

The President has appointed the following gentlemen to constitute the Committee on Auditing :

Robert H. Parkinson, of Illinois.

Leonard E. Curtis, of Colorado.

#### COMMITTEE ON PUBLICATIONS.

James Hagerman, of Missouri.

Charles M. Campbell, of Colorado.

Edward Q. Keasbey, of New Jersey.

William H. Staake, of Pennsylvania.

Charles Martindale, of Indiana.

#### COMMITTEE ON RECEPTION.

Lucius M. Cuthbert, of Colorado.

Charles Monroe, of California.

P. W. Meldrim, of Georgia.

Walter S. Logan, of New York.

Horace G. Lunt, of Colorado.

Charles Claflin Allen, of Missouri.

William P. Breen, of Indiana.

Edward A. Harriman, of Illinois.

Thomas Patterson, of Pennsylvania.

A recess of ten minutes was then taken, after which the General Council was elected.

*(See List of Officers at end of Minutes.)*

The President :

The next business in order is the report of the Secretary.

John Hinkley, of Maryland, Secretary, read his report.

The President :

The Report will be received and placed on file.

*(See the Report at end of Minutes.)*

The President :

Next in order is the report of the Treasurer.

Francis Rawle, of Pennsylvania, Treasurer, read his report.



The President:

This report will be received and referred to the Auditing Committee.

*(See the Report at end of Minutes.)*

The President:

Next in order will be the report of the Executive Committee.

The report of the Executive Committee was read by the Secretary.

The President:

The report is received and will be placed on file.

*(See the Report at end of Minutes.)*

The President:

Before adjournment this morning, gentlemen, I wish to read the following letter which has been received:

“LOUISIANA PURCHASE EXPOSITION COMPANY,  
ST. LOUIS, MO., August 17, 1901.

*The President of the American Bar Association.*

*Dear Sir:*

The Louisiana Purchase Exposition Company extends to your Association a cordial invitation to hold its annual meeting in St. Louis in 1903. In that year will be held an exposition that will surpass all previous world's fairs. Special attention is already being given to matters in which your Association is directly interested.

St. Louis is the most central of all American cities and the most easily accessible by rail from all points.

We trust this invitation will commend itself to your members.

Yours respectfully,

C. H. SPENCER,  
*Vice- and Acting President.*

Walter B. Stevens,  
*Secretary.*

James Hagerman, of Missouri :

Mr. President, I rise to ask that a written communication in the nature of a memorial to this Association may be read at this time. It is short and I will ask Mr. Charles Claffin Allen, of the St. Louis Bar, to read it, after which I desire to obtain the floor for a moment or two.

The President :

If there is no objection, the communication may be presented by Mr. Allen.

Charles Claffin Allen, of Missouri :

Mr. President, and gentlemen of the American Bar Association: In 1803 the United States purchased the Louisiana Territory from France; in 1903 the Centennial of that purchase will be celebrated in the City of St. Louis, Missouri.

After the Purchase treaty was signed, Napoleon said to Marbois: "This acquisition of territory strengthens forever the power of the United States."

His prophetic words have been realized. The Louisiana Purchase paved the way for the acquisition of Oregon, California and Texas, enabled the United States to span the continent from the Atlantic to the Pacific; and made her territory the meeting ground for the Occident and the Orient. The wilderness of 1803 has developed into fourteen States and Territories, including the great State of Colorado, in which the meeting of the American Bar Association is held.

The price paid by the United States for the territory was \$15,000,000. Its taxable wealth to-day exceeds six thousand millions, and St. Louis, with the generous aid of Congress, is prepared to devote a sum equal to the price of the purchase solely to the celebration of its centennial in 1903.

The resources of this great domain are wonderfully varied and marvellous in their extent. Perhaps few people, even within the limits of the Purchase Territory itself, realize that it produces one-half of the cotton raised in the United States; that a billion bushels of corn a year is not an extraordinary

crop; that its wheat crop often amounts in value to \$200,000,000; its hay crop to \$150,000,000; and that the cattle, horses and mules upon its ranges are valued at a thousand million dollars.

This wonderful development in material resources has been accompanied by a corresponding development in the mental and spiritual life of its inhabitants. Universities, colleges, scientific and normal schools in many of the states are supported at the expense of the State; private institutions of learning are numberless, and public schools which must be, in the future even more than in the past, the conservators of the liberties of the people, can be seen from every hilltop.

Medical schools and Law schools are to be found in many of the cities in the Louisiana Purchase, some of them ranking with the best professional schools in the country.

The Centennial Exposition to be held in 1903 is in charge of the Louisiana Purchase Exposition Company, and the plans of the management contemplate a World's Fair greater and more wonderful than any ever held. It has an appropriation from Congress of \$5,000,000, the largest aid ever given by the United States to a like purpose, and it has the promise of full support by the Government. It will not be like any of its predecessors in architecture, landscapes, designs, or the arrangement of its exhibits. It will be a stupendous monument to the material growth and commercial and manufacturing development, not only of the Louisiana Purchase and the United States, but of the whole world.

But it will be more than that. It is a part of the plan to gather together the learned men of the world in the several departments of the arts and sciences, including the science of Jurisprudence.

There will be held in the City of St. Louis, Missouri, during the Centennial Exposition of the Louisiana Purchase, a Universal Congress of Lawyers. This congress will be composed as follows:

1. Lawyers and jurists from every nation of the world.

2. Teachers of Law and persons learned in special branches of jurisprudence.

3. Persons learned in Ancient Law, including teachers of the History of Law, and students of the laws of peoples and nations now extinct.

The foregoing summary is an outline of the underlying idea of the plan. The character, constitution and management of the Congress itself will be developed hereafter, and chiefly, it is hoped, by the American Bar Association.

The Committee on Education of the Louisiana Exposition Company, upon whom falls the duty of preparing for this Congress, adopt the definition of Justinian: "Jurisprudence is the knowledge of things divine and human, the science of the right and the wrong."

The one great object is to make the Congress of Lawyers as universal in scope as that definition. Therefore the Louisiana Purchase Exposition Company, acting through its Committee on Education, extends to the American Bar Association, as the great body of representative lawyers and jurists from all parts of the United States, an invitation to unite with the Louisiana Purchase Exposition Company in securing a Universal Congress of Lawyers, to meet at St. Louis, Missouri, during the Exposition of 1903.

To that end the American Bar Association is requested to appoint a committee of one hundred or more representative lawyers from different states and territories of the United States and from Foreign Countries, if desired, whose duty it shall be to plan, and, subject to the supervision of the Louisiana Purchase Exposition Company, arrange for the holding of such Universal Congress of Lawyers.

Approved:

DAVID R. FRANCIS,  
*President of the Louisiana  
Purchase Exposition Company.*

THE COMMITTEE ON EDU-  
CATION OF THE LOUISIANA  
PURCHASE EXPOSITION CO.  
By JOHN SCHROERS,  
*Chairman.*

James Hagerman, of Missouri: .

As pertinent to the Memorial which has just been read, I yield the floor to Mr. Stevens, of Minnesota, for the purpose of allowing him to offer a resolution.

Hiram F. Stevens, of Minnesota:

I believe that the proposition involved in this invitation and Memorial is one which commends itself to this Association. In great detail and with great force the Memorial sets out the advantages that will come to us and to the people of the United States by reason of that Exposition. But, looking at it from the other side, I believe it is due to the memory of the foresight of that great Father of the Republic and to the great man who supported it, and a proper recognition of that transaction, not only upon the United States but upon the civilized world, that we as lawyers should recognize the importance of that event which changed the frontier of the United States from the Mississippi River to that undefined and undefinable space which we now call the Orient, and placed all this territory, in the centre of which we are now enjoying ourselves so much, no longer under the tyrannical flag of Spain, but under the domain and protection of the Stars and Stripes and the civilization which that means, now, always and forever.

I offer the following resolution:

*Whereas*, a Memorial of the Louisiana Purchase Exposition Company, under whose auspices the Centennial of the acquisition of the Louisiana Territory—an epoch second only in importance to the Declaration of Independence, the adoption of the Constitution and the inauguration of the Federal Government with General Washington as President—is to be celebrated in the City of St. Louis, in the year 1903, has been presented to this Association, announcing its intention to hold in connection with said celebration, an Universal Congress of Lawyers, including representatives of the bench and bar, and authors, writers and teachers of the law from all the nations of the earth and has requested earnestly the coöperation,

approval and support of this Association and in connection therewith has extended an invitation to this Association to hold its annual meeting of 1903 in St. Louis.

*Now therefore* be it Resolved that the Memorial and accompanying invitation be referred to a special Committee of nine members, to be appointed by the President.

Rodney A. Mercur, of Pennsylvania :

Mr. President, I second that motion.

The resolution was adopted.

Edward Q. Keasbey, of New Jersey :

Mr. President, may I be permitted to inquire if that includes the invitation ?

The President :

The Chair so understood it.

Hiram F. Stevens, of Minnesota :

It does include the invitation, with knowledge, of course, that it will not invade the prerogative of the Executive Committee, but shall be a recommendation, and shall be taken in connection with the action of the Executive Committee merely as a recommendation to that committee.

Edward Q. Keasbey :

I was about to suggest the point of order that the invitation is a matter entirely within the province of the Executive Committee.

The President :

The Chair understands that the motion is simply for consideration and report, and in no sense does it invade the prerogative of the Executive Committee. The motion has been carried. The Chair will announce the members of that committee later.

Gentlemen, this closes our business for this morning, and the Association will now take a recess until eight o'clock this evening.

A recess was then taken to 8 P. M.

EVENING SESSION.

*Wednesday, August 21, 1901, 8 P. M.*

The President called the meeting to order.

New members were then elected.

*(See List of New Members.)*

The President:

The Chair will announce the names of the following gentlemen to constitute the Committee on the Louisiana Purchase Exposition, as provided for by the Resolution adopted this morning:

Hiram F. Stevens, of Minnesota.

James Hagerman, of Missouri.

Walter S. Logan, of New York.

William A. Ketcham, of Indiana.

Charles F. Libby, of Maine.

Hugh Butler, of Colorado.

Burton Smith, of Georgia.

Adolph Moses, of Illinois.

F. C. Dillard, of Texas.

Gentlemen, we shall now have the pleasure of listening to a paper by Mr. Richard C. Dale, of Philadelphia, on "Implied Limitation upon the Exercise of the Legislative Powers."

Mr. Dale then read his paper.

*(See the Appendix.)*

The President:

The Association will now have the pleasure of listening to a paper to be read by Mr. Charles J. Hughes, Jr., of the Denver Bar, upon "The Evolution of Mining Law."

Mr. Hughes then read his paper.

*(See the Appendix.)*

The President:

The papers read are now open to discussion, should any members desire to discuss them. If there is no discussion, we

will take an adjournment until tomorrow morning at ten o'clock.

The Association then adjourned to Thursday morning, at 10.30 o'clock.

## SECOND DAY.

*Thursday, August 22, 1901, 10.30 A. M.*

The President :

The Association will please come to order. I have the great pleasure of introducing Hon. Charles E. Littlefield, of Maine, who will deliver the Annual Address, upon the subject of "The Insular Cases."

The Annual Address was then delivered by Charles E. Littlefield, of Rockland, Maine.

*(See the Appendix.)*

Additional new members were then elected.

*(See List of New Members.)*

The President :

The next regular business in order is the reports of Standing Committees, and the first one will be the Committee on Jurisprudence and Law Reform. There appears to be no member of that committee present, and therefore that will be passed.

The next in order is the Committee on Judicial Administration and Remedial Procedure.

The Secretary :

The Secretary of the Association begs to state that he has received from the chairman of that committee the following report.

The report was then read by the Secretary.

*(See the Report in the Appendix.)*



The President :

The report of the committee will be received and filed.

The next is the Committee on Legal Education and Admission to the Bar. Is there any report from that committee?

Henry E. Davis, of Washington, D. C.:

On behalf of that committee I wish to report that the committee has submitted to the Secretary a somewhat lengthy report reviewing the history of law schools and legal education in the country during the past century. I therefore respectfully submit the report without reading it.

*(See the Report in the Appendix.)*

The President :

The report of the Committee on Commercial Law. Is there any report from that committee?

Walter S. Logan, of New York :

Mr. President and gentlemen, I value your friendship too much to read the report of the committee. It has been printed and distributed, and you are presumed to have knowledge of it. If any of you are deficient in such knowledge, you will find copies of the report here at the Secretary's desk.

The committee have for two years before the passage of the Bankruptcy Act, and ever since, been wrestling with that law. We have done this by the command of the Association, given to us each year. Before the law was passed we did what we could to secure the passage of an acceptable Bankruptcy Law. We got a Bankruptcy Law. I leave out the word "acceptable." Since its passage we have done our best to secure acceptable amendments. If the distinguished President of this Association had no other title to immortality, he would go down in history as the head of the Patent Law Section of this Association, which has saved the Patent Law of the United States. Now it is the ambition of the Commercial Law Committee to do what it can to save the Bankruptcy Law. The Patent Law was saved by amending it to make it a fair and acceptable law. The only way to save the Bankruptcy Law is

by acceptable amendments, which will make it fair to the creditor as well as to the debtor. The position taken by the committee, and supported by the Association, has been that a Bankruptcy Law, to remain upon the statute books and to be a part of the jurisprudence of this land, must be a law which protects the creditor at the same time that it relieves the debtor. It must not be a one-sided law; it must be a creditors' law as well as a debtors' law, and the amendments which we have proposed and that you have accepted in years past, have been directed to making this a law which will protect the creditor as well as relieve the debtor. Amendments are now pending before Congress which go far to accomplish this result. We have proposed other amendments, and last year this Association stood behind us in support of those amendments. We were able to get no legislation in Congress during the last year, but we hope for a better result next winter. Politics occupied Congress last winter to a very great extent.

They had too much to do with the Insular Cases to pass bankruptcy laws, but the Insular Cases having been settled this morning, we hope the Bankruptcy Law will receive some consideration from Congress next winter.

The Committee on Commercial Law recommend that the Association shall continue in the future as it has in the past to support the principle of a Bankruptcy Law. We have summed up our conclusion in the words embodied in the report, and ask the approval of the Association both as to what we have done, and what we propose to do.

I offer this resolution:

*Resolved:* That the report of the committee be accepted and approved; and

*Further Resolved:* That the Committee on Commercial Law for the ensuing year be authorized and instructed to continue the line of work of its predecessors looking to the perfecting of the Bankruptcy Law.

Sigmund Zeisler, of Illinois :

Mr. President, I second the adoption of that resolution.

The resolutions were adopted.

*(See the Report in the Appendix.)*

The President :

Is there any report from the Committee on International Law ?

The Secretary :

The report is in print, but I believe none of the members of the committee are present.

The President :

As the report has been printed and distributed, and unless there is objection to the action, the report will be received and filed.

*(See the Report in the Appendix.)*

The President :

The Committee on Grievances.

There appears to be nobody present from that committee, and so that will be passed.

The Committee on Obituaries.

Is there any report from that committee ?

The report of the Committee on Obituaries was read by the Secretary.

*(See the Report in the Appendix.)*

The President :

The report of the Committee on Law Reporting and Digesting. Is there any report from that committee ?

The report was presented and read by Edward Q. Keasbey, of New Jersey, Chairman of the committee.

The President :

The report is received and will be filed.

*(See the Report in the Appendix.)*

The President :

Next in order is the report from the Committee on Patent, Trade-Mark and Copyright Law.

Lester L. Bond, of Illinois :

Mr. President and Gentlemen : I appear to be the only member of that committee present. I would state that we have no report, and our first meeting is called for three o'clock this afternoon. We may hereafter be prepared to make a report, but we have none at present.

The President :

In view of what has been stated by Judge Bond, leave will be granted to that committee to report later, if they so desire.

This ends the series of reports of Standing Committees. The Secretary has, I believe, some announcements to make.

The Secretary then read invitations from the Denver Club, the University Club of Denver, the Denver Athletic Club and the Overland Park Club, extending the privileges of those clubs to the members of the American Bar Association for the period of fourteen days.

The President :

The Chair would announce the following gentlemen as members of the Committee on the Dinner :

Francis Rawle, of Pennsylvania.

Rodney A. Mercur, of Pennsylvania.

Burton Smith, of Georgia.

Henry F. May, of Colorado.

P. W. Meldrim, of Georgia.

Adolph Moses, of Illinois :

Mr. President, I wish to record my note of dissent to the general applause which followed the presentation of "The Insular Cases" by Mr. Littlefield. When the matter came to my attention I looked with a great deal of pleasure to the fact that he had chosen this difficult subject for the information of this Association. I regret to have listened, not to a piece of information, but rather to what I consider an unwarranted attack upon the Supreme Court of the United States, and, as a member of this Association, I wish to record my voice

here as a protest against the use of this platform for a purpose of this kind.

I remember to have read that when the celebrated case of *Cohens vs. Virginia* were decided by Chief Justice Marshall, he was denounced in every court house in Virginia, and yet to-day we look upon that great decision as one of the vindications of the government. That is not the only instance, sir, where denunciation has followed the action of the Supreme Court of the United States.

Those who believe with the majority have full confidence in the sober second thought of the people of the United States as to the correctness of that great decision. It has a political aspect and it is but natural that all of us free Americans should take divergent views, but I protest against the use of this platform on the part of any man, however capable and learned he may be, who,——

Thomas Patterson, of Pennsylvania :

Mr. President, I rise to a point of order.

The President :

The gentleman from Pennsylvania will state his point of order.

Thomas Patterson :

My point of order, sir, is that the gentleman is out of order in speaking to a question that is not now before the house.

The President :

The Chair of the opinion that the point of order is well taken.

Gentlemen, is there any further business to come before the Session this morning? If not, we will adjourn until evening.

A recess was then taken until 8 o'clock P. M.

## EVENING SESSION.

*Thursday, August 22, 1901, 8 o'clock P. M.*

The President :

The Association will come to order. We will now have the pleasure of listening to a paper by Mr. Henry D. Estabrook, of Chicago, upon "Alexander Hamilton as a Lawyer."

Henry D. Estabrook then read his paper.

*(See the Appendix.)*

The President :

The Association will now have the pleasure of listening to a paper by Mr. Platt Rogers, of the Denver Bar, upon "The Law of New Conditions—Illustrated by the Law of Irrigation."

Platt Rogers then read his paper.

*(See the Appendix.)*

Additional new members were then elected.

*(See List of New Members.)*

The President :

Preceding the consideration of the reports of Special Committees, I would like to ask if the Special Committee on the matter of the Memorial of the St. Louis Exposition is ready to report; if so, I will ask that it report first.

Hiram F. Stevens, of Minnesota :

The Committee have had the matter under consideration, and without reciting the terms, I will proceed at once to the reading of the committee's report, and the resolutions the adoption of which the committee recommends :

*(See the Report in the Appendix.)*

Charles F. Libby, of Maine :

I second the adoption of those resolutions.

Hiram F. Stevens :

I am reminded that the District of Columbia has not been expressly included. That being so, I ask leave to change the

report so as to allow of the inclusion of the District of Columbia.

The President :

If there is no objection, that may be done.

The resolutions were then unanimously adopted.

Charles F. Manderson, of Nebraska :

While perhaps not in the regular order of business, I ask leave at this time to make a motion. Two years ago, when the American Bar Association met at Buffalo, our transactions were rendered most interesting by the presence at the same time, of The International Law Association. We who were there recall with great interest the meeting of the Association that, for the first time in its history of a quarter of a century, met on American soil. I need not take up the time to state the importance of that Association and the great work that it has accomplished during the last twenty years. By a coincidence The International Law Association is now holding its session in the City of Glasgow, Scotland, and I move that the Secretary of the American Bar Association send a cablegram of greeting and good wishes to this brother Association of ours.

Amasa M. Eaton, of Rhode Island :

I second that motion.

The motion was adopted.

The President :

Is the Special Committee on the Classification of the Law ready to report ? There being no one from that committee present, that report will be passed.

The Special Committee on Indian Legislation. There does not seem to be any report from that Committee, and so that will be passed. Special Committee on Uniform State Laws.

The report of the Committee on Uniform State Laws was then read by Lyman D. Brewster, of Connecticut.

*(See the Report in the Appendix.)*

Amasa M. Eaton, of Rhode Island :

I move you, sir, that the report be received and the committee continued, and I wish to urge upon members the necessity, in every way possible, of aiding the efforts of the Commissioners who have been in conference on Uniformity of Laws, in getting the laws which they have recommended passed in the various states. A great many of these measures are simply before the public with no one to urge their passage; the members of this Association are familiar with their work, and it is earnestly desired that they give assistance in every way possible in securing the passage of the laws recommended by the Commissioners.

The motion was adopted.

The President :

The Committee on Federal Code of Criminal Procedure.  
Is there a report from that committee?

(*See the Report in the Appendix.*)

The President :

The Chair would suggest that notwithstanding the fact that the committee has found so little to do, in view of the pendency of the revision of the statutes to which I referred in my address, it would at least be useful if the committee were continued, in case the occasion for its action should arise.

William A. Ketcham, of Indiana :

Mr. President, I move that the committee be continued. There may be a very great necessity for having that committee in existence.

Wilbur F. Sanders, of Montana :

Mr. President, may I ask when this Commission was appointed?

Charles F. Libby :

About three years ago.

W. F. Sanders :

What has been done by that Commission in the meantime?



Charles F. Libby :

They have reported in part. Their powers were afterwards enlarged to cover the reorganization and practise and procedure of the Federal courts, and they have, I think, sent to Congress a part of their deliberations relative to the Federal courts.

William A. Ketcham :

Mr. President, I would like to inquire what is the function of this committee, as described in our proceedings?

The President :

The committee now reporting is the Committee on Federal Code of Criminal Procedure. That is the title of it.

Wilbur F. Sanders :

It seems to me that the time mentioned by the chairman of the committee is wholly ample to have completed that task, and that if this is designed and intended to be a practical committee to perfect the laws of the United States, their labors ought long since to have been completed, and I am apprehensive that our committee is being trifled with in this regard; I cannot think that three years need to have transpired before there might have been, with all the advantages that are afforded to that Commission, a report which should cover a Code of Practice touching the criminal laws of the United States, and I trust that if the committee shall be continued, it will not conceive that its duty is to fold its arms and await the somewhat slow process of the Commission appointed for the purpose indicated.

I wish to say further, and I speak from a somewhat extensive examination of the question, that it seems to me that this Association, before it adjourns, ought to memorialize Congress that there be published a new edition of the Statutes at Large of the United States, some of the volumes of which I believe are out of print. As to the criminal laws of the United States and a Code of Procedure thereunder, I think we should urge, by all the means at our command, early and efficient action.

Charles F. Libby :

I may have inadvertently misstated the time that has elapsed since the appointment of this Commission. It is more than two years ; it may not be quite three years.

Henry E. Davis, of the District of Columbia :

This Commission for the Revision of the Criminal Laws was appointed several years ago, and consisted of three members. At the last session of Congress, the number of members was increased to five, and the Commission was charged with the duty of revising not only the criminal but also the general statutes of the United States. That Commission is now engaged in its labors. It has been retarded in the discharge of its labors, first, by the illness, followed by the death, of one of the members of the Commission. There is every reason to believe now that their work will be expeditiously performed.

Wilbur F. Sanders :

I am very grateful for the information. I am not so insistent upon a revision of the criminal laws or the civil laws of the United States, as I am for a re-publication of the Statutes at Large of the United States, which was given over, very many years ago, to Messrs. Little, Brown & Company, and the recent numbers of which I believe are in existence, but the edition down to perhaps twenty years ago is wholly out of print. I think the Congress of the United States, upon the request of the American Bar Association, would pass a law providing that those statutes as they were passed should be reprinted with annotations. And I move you, sir, that this question of the advisability of reprinting the Statutes at Large of the United States, with annotations, be referred to this committee, and that they be requested to make a report thereon, and to urge upon Congress the necessity of such a re-publication.

The President :

There is already a motion before the House, namely, upon the continuance of the committee. The Chair will first put the question upon that motion :

The motion was adopted.

Wilbur F. Sanders :

Now I renew my motion.

Charles F. Manderson, of Nebraska :

As I understand Mr. Sanders' motion, it is that the committee be requested to take steps to call to the attention of Congress the necessity of the re-publication of the Statutes at Large. I think the matter will come with more force and have the greater effect if, by a resolution passed by this Association, the attention of Congress is called directly to the fact that the Statutes at Large are largely out of print, and ask that they be re-published. The present manner of publication and distribution is, that first, for free distribution by members of Congress, the statutes, at the close of each session of Congress, are published in pamphlet form, and are distributed, to a very moderate degree, to the constituents of Congressmen. This is a very unsatisfactory way to receive even the Session Laws of Congress. At the close of each Congress the statutes are published under the direction of the State Department, and in bound form are sold by the Secretary of State. I think if we were to memorialize Congress, or adopt a simple resolution calling attention to the fact and asking that the Statutes at Large be re-published in bound form and be sold either by the Public Printer or by the Secretary of State at their cost to the government, with ten per cent. added, which is the usual course of procedure, that that will carry greater weight than to have the Committee act upon it.

Wilbur F. Sanders :

My friend, Senator Manderson, who was Chairman for many years of the Joint Committee on Printing in Congress, knows more about this matter than any other person possibly can hope to know, and his suggestions are law to me. I have not any doubt but that we should memorialize Congress to re-publish, I hope, with annotations; I hope that will meet Senator Manderson's approval. Someone ought to annotate them, I think, and call attention in Volume I to all the subsequent legislation that appertains to the law involved. I will therefore modify

my motion to conform to Senator Manderson's suggestion, namely, that the American Bar Association respectfully memorializes Congress to cause to be republished the statutes of the United States *in extenso*, as they have heretofore been published, with such annotations as will render them intelligible as to subsequent legislation upon similar subjects.

The President :

Will the gentleman reduce that motion to writing ?

Wilbur F. Sanders :

I will reduce the motion to writing, so that it will express the idea which I have perhaps very vaguely indicated.

Charles F. Manderson :

I second that motion.

The President :

Gentlemen, you have heard the motion which has now been seconded. Are you ready for the question ?

Sigmund Zeisler, of Illinois :

I would suggest that before we vote upon this motion it be put in writing. It is best to pass upon this matter when a motion has been put in writing, so that we can see just what it is. And I would suggest that it be laid over until tomorrow morning.

The President :

Does the suggestion of the gentleman from Illinois meet with favor ? If so, the Chair thinks that is possibly the best plan to pursue. Therefore, this will come up to-morrow morning under the head of unfinished business.

Is there any report from the Committee on Penal Laws and Prison Discipline ?

R. W. Williams, of Florida :

Four members of the committee are not here, Mr. President, and no report has been prepared. The only business referred to the committee is a direction to submit a resolution changing the Constitution and By-Laws of the Association, so that this Association may be ready at the next International Congress

which meets in Hungary four years hence. I would ask that the matter of a report be deferred until the next meeting.

The President :

Is there a motion for a continuance of the committee ?

William A. Ketcham :

I make that motion.

Wilbur F. Sanders :

And I second it.

The motion was adopted.

The President :

The Committee on Federal Courts is next in order.

Charles F. Libby, of Maine :

In the absence of the Chairman of that committee I have been requested to present a short report and a resolution in behalf of the committee.

*(See the Report in the Appendix.)*

William A. Ketcham :

As I recollect it, this Association, a year or two ago, authorized action by some committee with reference to securing an appeal from interlocutory orders.

Wilbur F. Sanders :

The existing law touching the trial of cases in the courts of the United States was the result of differences of opinion between the Senate of the United States and the House of Representatives. It is ten years ago, perhaps, that this law was passed, and the House of Representatives passed a law upon that subject. It came to the Senate—and the Senate is nothing if not wiser than the House—and it was deemed essential for its dignity to change the law entirely, and we did so. The present law was drawn, I believe, by our late distinguished member, Mr. Evarts. It has proved wholly unsatisfactory, I think I may say ; but it has occurred to me that there ought to be an opportunity for all litigants who try cases before juries, notably, and who are liable to be taken by surprise, to have a second trial, either in the court in which the

original trial was had, or upon some appeal—speaking now merely of the question of fact. That has been a provision that has obtained in some states, and I think it wise, because litigants cannot always anticipate what may be produced against them; whereas, if they have an opportunity to have a re-trial, either in the same court or upon appeal, they can correct any error that might have arisen. I am very much impressed with the wisdom of the law that is recommended, but I think that there ought to be an opportunity on some condition for a party who has been beaten in a case at *nisi prius* to have a re-trial without unnecessary delay. I rise, not to make any motion to change the matter that is before the Association, but to suggest that to the committee.

The President :

The question before the Association is upon the proposed resolution read by Mr. Libby, to the effect that the committee be continued with the power to advocate the passage of the bill which has already been approved by this Association.

The motion was adopted.

The President :

The Committee on Appeals from Orders Appointing Receivers is next in order.

Charles F. Libby :

That is covered by the functions of this same committee, I believe.

The Secretary :

I have a report here from that committee which I will read.

Wilbur F. Sanders :

I move that that report be received and the committee continued.

The motion was adopted.

(See the Report in the Appendix.)

William A. Ketcham :

Would it be in order to move the discharge of that committee from further consideration of the subject, and the duties of the committee be referred to this other committee ?

The President :

Yes ; the Chair thinks it would.

Wilbur F. Sanders :

I second that motion, if the gentleman makes it as a motion.

Hiram F. Stevens, of Minnesota :

Two years ago this committee reported a certain bill which the Chairman of that committee had prepared and caused to be introduced in Congress. Thereupon that committee, upon their own motion, asked for further time that they might repair the errors that they had committed.

The President :

A motion has been made and seconded. Does Mr. Ketcham withdraw it ?

William A. Ketcham :

It will do no harm to put the motion, I think.

The President :

Then the question will be put upon the motion, as originally stated, that the committee be discharged and that their functions be transferred to the Committee on Federal Courts.

The motion was adopted.

The President :

The Committee on Industrial Property and International Negotiations. Is there any report from that committee ? There does not seem to be any, so that subject will be passed.

The Committee on Title to Real Estate. There does not seem to be anyone present from that committee, so that will be passed.

The Committee on John Marshall Day. Is that committee ready to report ?

Henry E. Davis, of the District of Columbia :

Mr. President, in the absence of the Chairman of the committee, and at the request of the Secretary of the committee, who has prepared this report, I will proceed to read it in his name.

William A. Ketcham, of Indiana :

I rise for information, Mr. President. Is this a report from the Secretary of this Association, or is it a report from the Secretary of this committee and made in the absence of the Chairman of the committee?

Henry E. Davis :

Mr. President, I beg to inform the gentleman through you, sir, that this is a report prepared by Mr. Moses, as a member of the John Marshall Day Committee, in the absence of the Chairman of that committee.

William A. Ketcham :

I am myself a member of the John Marshall Day Committee. That committee was composed of one member from each state and territory. Now I assume that there are other members of that committee present besides myself. I have been here, to the knowledge of the Secretary of that committee, since Sunday morning last. I think I shall object to the reading of a report from that committee when the members of the committee have had no opportunity whatever to see it or know what it is.

Henry E. Davis :

I had assumed, Mr. President, that this report was prepared by the direction of the Chairman of the committee who was authorized by the committee to prepare it. He requested that that work be performed by the Secretary, in his absence and owing to his inability to be present.

William A. Ketcham :

If that be true, it seems to me that the Secretary of the committee ought to have called the attention of the members of the committee who were known to be present here and in attendance upon this meeting, to see whether they would approve or disapprove of the report, and I object, as a member of that committee, to the reading of a report that I, as a member of the committee, have not had any opportunity whatever to see.



Wilbur F. Sanders :

I, as a member of that committee, desire to move that this report be made the special order for to-morrow morning at eleven o'clock. I have no desire to examine it myself, not distrusting the wisdom of the committee or any member of it, but I think if any member of the committee objects to the reading of the report until he shall have had an opportunity to see it, that his objection is good, and that the report ought to lay over until he can have that opportunity.

Adolph Moses, of Illinois :

Let me make an explanation, Mr. President. The gentleman has forgotten the fact that the General Committee has been superseded by an Executive Committee, and that that Executive Committee, during all of this time, has alone had charge of this matter.

Henry E. Davis :

In view of the objection that has been made, I hope the motion will prevail, and that the matter will be made the special order for to-morrow morning.

William A. Ketcham :

When it is suggested that a member of the committee has not been consulted in the work, I think the members of the committee ought certainly to be given an opportunity to see a report before it is presented.

The President :

The Chair understands that there is no objection by the members of the Association to the report standing over and being made the special order for to-morrow morning at eleven o'clock. The question will be put upon the motion making this report the special order for to-morrow morning at eleven o'clock.

The motion was adopted.

The President :

If there is no further business to be brought before the Association this evening, an adjournment will be taken until to-morrow morning.

F. C. Dillard, of Texas :

I desire to enlighten the gentlemen, both in justice to the Secretary of the committee, and to the Chairman of the committee, Judge Howe. I was a member of the committee. Mr. Howe addressed a letter to every member of that committee, and, from a great many of the members, he received letters suggesting that the committee was so large that it was impracticable for it to work and to carry out its functions as a body, and that he appoint an Executive Committee, which committee should consist, I think, of about five members, which should carry out the objects of the General Committee. Whether Senator Sanders received a letter of that kind or not, I do not know. I know that very many members of the committee did.

Henry E. Davis :

I think General Ketcham would not have objected to the reading of this report which has been prepared by Mr. Moses—we all know that he has borne the brunt of the work and that he is entitled all the credit. As General Ketcham says—excuse me for referring to him by name—the members of the John Marshall Day Committee have been in Denver since Sunday or Monday, and they have known that the report of this committee was the order for this evening. They have known, too, that Judge Howe is not here, and they have known that Mr. Moses, the Secretary of the committee, is here, and it was very easy for them to have seen this report and saved him this humiliation by asking him if the report was prepared. I have myself known about it, being a member of the committee, and have known about all the proceedings from the beginning, and I have known of the correspondence that has passed between the Chairman of the committee and Mr. Moses. The report is a mere narrative, and I must, on behalf of Mr. Moses, and not at all on behalf of myself, express my regret that this occurrence has been found necessary.

Wilbur F. Sanders :

Far be it from me to visit upon our brother to whom we owe so much for the celebration of John Marshall Day any

humiliation whatever. I deny utterly any intention of that character.

B. R. Burroughs, of Illinois :

Mr. President, I rise to the point of order that there is nothing before the house.

The President :

The point of order is well taken. There is nothing before the house at this moment.

Wilbur F. Sanders :

There is no desire to humiliate Mr. Moses at all, and I confess to a feeling of professional obligation to my friend for what he has done, but it did seem to me, if any member of the committee had not had an opportunity to see this report made in his name upon a question and a subject of this magnitude, that it was due to him that he should have an opportunity to see it, and I wish to say that no member of this Association has done so much, or has called our attention to a great matter in American history, as our friend from Chicago, who is the father of John Marshall Day, and who will have a right to be proud of it while he lives, and after he is dead we will all be proud of what he has done. I am perfectly willing to let this matter go over until to-morrow morning and then we will take care of him.

The Association then adjourned to Friday morning, August 23, 1901, at 10 A. M.

### THIRD DAY.

*Friday, August 23, 1901, 10 A. M.*

The President called the Association to order.

Additional new members were then elected.

*(See List of New Members.)*

The President :

The next business in order is the nomination of officers.

Hiram F. Stevens, of Minnesota :

Before proceeding to the nomination proper I am instructed by the General Council to request the Association to take action upon the nomination for members of the General Council from Alaska, Montana and Indian Territory. They nominate and request the election by the Association of Judge Melville C. Brown of Juneau, as a member of the General Council for Alaska ; Senator Wilbur F. Sanders, of Helena, for Montana ; and C. L. Jackson, of Muscogee, for Indian Territory.

The President :

If no objection is made, the names of the gentlemen that have just been read will be added to the General Council.

There being no objections, they are declared elected members of the General Council.

Hiram F. Stevens :

And they make the further suggestion, which is unusual because of the circumstances. The Association now has representatives from every state and territory of the Union, except Nevada, and so far as they might, the Council have authorized the Secretary to fill that vacancy. If the Association will approve of that, no doubt it can be worthily filled and then the Association will be universally represented.

The President :

Is Mr. Stevens' proposal seconded ?

Charles Claflin Allen, of Missouri :

I move that the suggestion of the Chairman of the committee be approved.

Ralph W. Breckenridge, of Nebraska :

I second the motion.

The motion was adopted.

Hiram F. Stevens :

The constitution and the traditions of this Association forbid anything but a statement or report of the action of the General Council ; and therefore in their behalf and by their direction

I report as nominees for the respective offices to be filled as follows :

For President, U. M. Rose, of Arkansas.

For Secretary, John Hinkley, of Maryland.

For Treasurer, Francis Rawle, of Pennsylvania.

For Members of the Executive Committee, to be elected :

William A. Ketcham, of Indiana.

Henry St. George Tucker, of Virginia.

Charles F. Libby, of Maine.

Rodney A. Mercur, of Pennsylvania.

James Hagerman, of Missouri.

All these nominations are unanimous. I will ask the Secretary to read the list of Vice-Presidents and members of Local Councils whose election has also been recommended.

The Secretary read the list of nominations for Vice-Presidents and Local Councils.

The President :

These nominations will lie upon the table until the order of election of officers is reached.

We will now proceed to the consideration of unfinished and miscellaneous business. Before doing so, the Chair would ask the members when they rise to address the Chair if they will be kind enough to state their names and states, and the Chair will also take the liberty of calling the attention of members to the By-Law that no member may speak more than twice on the same subject, nor more than ten minutes at a time. Unfinished business in in order, and the first that comes up is on the resolution offered last night by Senator Sanders, which has been put in writing.

Lyman D. Brewster. of Connecticut :

Before that is taken up, Mr. President, may I bring up a matter that will only take but one moment: It has gone abroad that the General Council has, by a matter that was referred back to the Association at the request of both sides, taken some action upon the subject of women being admitted

38 WHETHER CONSTITUTION INCLUDES WOMEN AS MEMBERS.

to the Association. That is not the case and I think the proposal I am about to make will meet the approval of all and that it will be referred directly. My proposed amendment is to add the following articles to the Constitution :

Article 12. The word "person" in the second Article of the Constitution shall be interpreted to include women as well as men.

I move the reference of that amendment to the proper committee.

Amasa M. Eaton, of Rhode Island :

I second that motion.

The President :

I suppose by general consent this may be considered now.

Burton Smith, of Georgia :

It is not that that amendment to the constitution be adopted, as I understand it, but the suggestion is that the amendment be referred to the appropriate committee.

Lyman D. Brewster :

Yes, sir.

Burton Smith :

Is not that the motion, Mr. President ?

The President :

Yes ; that is the motion, as the Chair understands it.

Lyman D. Brewster :

I suppose it should be referred back to the General Council as a committee.

The President :

The motion as stated by Judge Brewster is that the question in regard to the interpretation of the constitution by this amendment be referred to the General Council as a committee for the purpose of reporting at the next meeting of the Association.

The motion was carried.

The President :

The resolution of Senator Sanders, which was presented yesterday and which has now been put in writing, is as follows :

It is the sense of the American Bar Association that a new edition of the United States Statutes at Large is required ; that the same should be annotated, and that they should be distributed to the various officers of the government, to the end that a more convenient and efficient administration of the law may be promoted and maintained.

Gentlemen, this resolution is before the house. Are you ready for the question ?

Wilbur F. Sanders :

I had desired to submit that resolution to the gentleman from Nebraska before offering it, but I could not find him.

Simeon E. Baldwin, of Connecticut :

May I suggest to the mover of that resolution that one point he brought out very forcibly last night is not noted in the resolution—namely, that this edition should be classed with those other government publications which are for sale to the public at cost and ten per cent. extra ? It seems to me that is a very desirable provision to incorporate in the resolution for the benefit of the bar.

Wilbur F. Sanders :

I presumed that the government would continue somewhat as it has heretofore and permit Messrs. Little, Brown & Company to publish these books. All that I expected, from my own knowledge, which was limited, was that the government would subscribe for so many copies as would make it a pecuniary object for some big concern to publish these statutes. There will be thirty volumes of them, I suppose, or more, and if the government should take a thousand sets, or something like that, whatever is necessary, I have no doubt that big concern would find it an object to have the statutes annotated, not merely with cross-references but with the judicial decisions, and in that way we should get them. The books are out of

print, but if they are published by the government it is always true, I believe, that duplicate copies can be obtained on the terms suggested by Judge Baldwin.

Charles F. Manderson :

Only upon notice to the Public Printer in advance of the issuing of the edition that sets will be desired. I think that the proposition of Judge Baldwin is one that should be adopted—that is, that a sufficient number of these should be printed and deposited with the Secretary of State and sold to all who desire them, without this preliminary notice to the Public Printer, at cost of publication to the government and ten per cent. additional.

Wilbur F. Sanders :

I will accept the amendment.

Charles Martindale, of Indiana :

I desire to move to amend the resolution by striking out the words “and be annotated.” I make this motion for the reason that I am informed that if this requires an annotation, it will involve the appointment of a commission to annotate and several years to secure the annotation, and we may all have passed beyond the Divide before we get the edition printed. If there is any merit in this, the merit is in having the edition speedily.

The President :

Gentlemen, you have heard the amendment. Is the amendment seconded ?

F. B. Brown, of Minnesota :

I ask that the resolution as thus proposed to be amended shall be read.

The President :

Will Judge Baldwin kindly put his amendment in writing ?

Wilbur F. Sanders :

If this edition is to be published by the United States government and distributed as the Session Laws are, by the Secretary of State, the criticism of the gentleman from Indiana would be



true. If, however, the edition were to be published by a private book concern, I do not think that annotation would require much delay. The facilities for annotation are ample in the centres of manufacture of that kind—Boston, New York, Philadelphia, and other places, where they would be likely to be published, provided it was done by a private concern. My resolution purposely avoided suggesting who should publish the statutes. The government needs these statutes very much, as I know personally.

Burton Smith, of Georgia :

It occurs to me that the resolution as made, with the amendment of Senator Manderson, which was accepted, is better than if the additional amendments were put to it. As has just been suggested, there is an abundance of efficient talent which can be obtained to annotate these works in very much less time than two or three years, and even if it were necessary to take considerable time to annotate them, it would be better for the bar, and for the public, when the books come to us, to have them annotated, because of the enormous assistance we will receive from the annotations. I therefore think the amendment should be adopted.

William A. Ketcham, of Indiana :

I take it for granted that no lawyer who desires a copy of these re-printed Statutes at Large in their original volumes, but has in his own office the present existing revision and will work, not upon the Statutes at Large but upon the Revisions as they exist now, and until the time the committee that is at work upon these has acted. Those Revisions constitute an entirely sufficient annotation of the statutes; in other words, no man is going to go back to the Statutes at Large to find what was passed in 1793; he will get his reference to the act of 1793 from the Revisions. The annotation is there, and it is from that that he will work; and it seems to me that this would be loading down with something that is unnecessary and will delay, and might perhaps interfere with, the work, because

every man that will practice law has already the annotation in the form of the revision of 1878, and the supplement of 1891, and it is from them that he will practice, and not from the original statutes. I think the amendment ought to prevail.

The President :

In response to the request of gentlemen, I will state the resolution, with the amendment which has been accepted by the mover, without the words moved to be stricken out by the amendment.

That it is the sense of the American Bar Association that a new edition of the United States Statutes at Large is required.

Then the amendment proposes that the words "that the same shall be annotated" shall be left out.

Then the resolution proceeds that—these statutes be distributed to the various officers of the government; and that the statutes, when re-printed, shall be offered to the public like other government publications, books of reference, at cost and ten per cent. additional.

The question is upon Mr. Martindale's amendment, striking out the words "that the same shall be annotated."

All in favor of that amendment will say "Aye;" opposed, "No."

The chair is in doubt, and a division will be had—

Burton Smith :

I think the Supplement of the Revised Statutes is about twenty years old.

A Member :

I rise to the point of order that the gentleman has spoken twice before, and now a vote is being taken, and therefore he is out of order.

Burton Smith :

I have not spoken but once upon this question, and I believe debate is open on a division.

William A. Ketcham :

Will the gentleman from Georgia allow me to ask him a question ?

Burton Smith :

Yes, sir ; with great pleasure.

William A. Ketcham :

I would ask whether or not this re-publication that is called for will not be limited to those Statutes at Large that are away back of the Supplement ?

Burton Smith :

I cannot answer that.

A Member :

I press my point of order.

The President :

I think the point of order is well taken.

Burton Smith :

Does the Chair rule that on a division discussion is out of order ?

The President :

I understood that to be the rule—while a vote is being taken.

Burton Smith :

I shall yield to the ruling of the Chair without question.

Charles F. Manderson, of Nebraska :

I ask that unanimous consent be given to the gentleman from Georgia, that he may be heard.

The President :

Unanimous consent is asked that the gentleman from Georgia be heard. Unless there is objection, consent will be granted. The Chair hears none, and therefore the gentleman from Georgia may have the floor.

Burton Smith :

I am very much obliged to the Association, and would say that it seems to me that the re-printing of those books will be

of very great value to us. The Supplement and the Revised Statutes we can use for a year or so, if necessary, and until we get the re-print. I believe we all know that it is frequently of great importance to have the original act and to have the annotations, so that when we get started on it we will find reference, additions, modifications and so on, and if the re-print is annotated, it gives to us continuously what will be of value to us and what we are looking for.

James D. Andrews, of Illinois :

In deference to what seemed to be the desire of the Association not to prolong the discussion, I refrained from expressing my views in reference to the desirability of these annotations, and I shall not venture my own opinion in reference to their value, because it is obvious that annotations are valuable, especially if the annotations are confined within certain limits ; but I imagine that the practical thing is to obtain the complete text of the laws of the United States of America within a reasonable price. Now, as a practical question, it will ultimately be found, if it is not known in advance, that it will be expensive to annotate the Statutes at Large—much more difficult than to annotate a Revision of the Statutes. This must necessarily add to the expense, and it must necessarily add very materially to the limit of time which shall elapse before the work can be obtained. I doubt very much whether there is much gained by annotating the Statutes at Large. Therefore I believe that the practical questions are the time and the expense, and I shall therefore vote in favor of the amendment.

Charles F. Manderson :

On reflection, prompted by this debate in large part, although I seconded the resolution of the gentleman from Montana, I shall vote in favor of this amendment—not only for the reasons already urged, but for others. When the Statutes at Large were first printed, they were, if I am not mistaken, in quarto form, a desirable form, the usual law book size. As the volumes were issued they gradually extended and were enlarged

in size until we now have them of that unwieldy form, the octavo. I hope that Congress, when in its wisdom it shall come to consider this question, will restore the old condition and give us the more convenient quarto form. Now, what will be the method of Congress when it comes to consider this suggestion, if it shall do us that much honor? Some member of one or the other House will introduce a resolution, a joint resolution, that the Statutes at Large be re-printed. He may suggest the form of the statutes, as to their size. That will be referred, probably, to the Committee on Printing. The Committee on Printing, if it does what we conceive to be its duty, will report back the resolution favorably, and will suggest, if it sees fit to annotate the Statutes at Large, that, under the direction of the Committee on the Judiciary, either of one or the other House, or both, this annotation be procured. That opens a very delightful door to satisfy the cravings for place of the constituents of members of Congress. It will be necessary that the Committee on the Judiciary shall employ one or experts who will proceed with the annotation, just so long as there shall be a sufficient amount in the appropriation bills to keep them actively employed, and I fear that—

Wilbur F. Sanders: Actively employed, did you say?

Charles F. Manderson:

Well, not with very great activity—not making themselves round-shouldered with the work.

Wilbur F. Sanders:

I am reliably advised that commissions of similar character find vacations of six months extent very necessary to their health while engaged in the work.

Charles F. Manderson:

So I fear that if we make this suggestion to Congress, it might be adopted. Therefore, I think it desirable that we should not have these Statutes at Large annotated. I quite agree with General Ketcham that the annotation of the Revised Statutes that shall come from this Commission, if it

shall ever complete its labors, will be all-sufficient for our purposes. Tucker's Notes also are very valuable. As to what shall be printed, that of course is in the discretion of Congress. The suggestion was made to me yesterday that there is no trouble about buying the Statutes at Large at second-hand of the second-hand book dealers. I have been told that second-hand book dealers in Washington had them for sale. It is rather lamentable that we should have to buy these books from second-hand dealers when we desire to inform ourselves of the statute law of the country.

The President :

Is there any further discussion? If not, the question is on the amendment leaving out the suggestion that the Statutes at Large should be annotated.

The amendment was adopted.

The resolution as amended was then adopted.

The President :

Is there any other unfinished business.

Adolph Moses, of Illinois:

Mr. President, I call for the special order that was fixed for eleven o'clock to-day, being the report of the Committee on John Marshall Day.

The President :

The Chair will rule that it is eleven o'clock and the report of the Committee on John Marshall Day will now be read.

Henry E. Davis, of the District of Columbia :

At the request of Mr. Moses, the Secretary of the committee, who prepared this report in the absence of the Chairman of the committee, I read this report.

The report was read.

The President :

The Report will be received and filed and the committee discharged.

*(See the Report in the Appendix.)*

The President :

Is there any other unfinished business ?

Hiram F. Stevens, of Minnesota :

I have a resolution which I desire to offer.

The President :

The resolution may be presented.

Hiram F. Stevens :

The resolution that I desire to offer is as follows :

*Resolved*, that the thanks of this Association be and they are hereby tendered to the Colorado Bar Association, the Denver Bar Association, the Denver Club, the Denver Athletic Club, the Overland Park Club, the University Club ; the ladies who have graciously afforded social entertainment ; the officials of the State of Colorado and City of Denver ; the enterprising and efficient press of Denver and Colorado Springs ; the railroad companies that have furnished transportation for excursions ; and the citizens of Denver and of the State of Colorado generally, for the unlimited courtesies, unstinted hospitality and unusual facilities which have combined to make our present session one of the most enjoyable and successful in the history of the Association.

The resolution was seconded and unanimously adopted by a rising vote.

The President :

Is there any other miscellaneous business ? If not, the election of officers is next in order.

We will vote first for President. The nominee for President is U. M. Rose, of Little Rock, Arkansas.

Hiram F. Stevens, of Minnesota :

I believe the Constitution provides, Mr. President, that the election shall be by ballot.

William L. Taylor, of Indiana :

If that is a constitutional proviso, then I move that the Secretary be instructed to cast the vote of the Association for Judge Rose for President.

Wilbur F. Sanders :

I second that motion.

The motion was unanimously adopted.

The Secretary :

Mr. President, I have cast the ballot of the Association, as directed, for U. M. Rose for President.

The President :

The Secretary has cast the ballot of the Association for U. M. Rose for President, and the Chair declares Judge Rose unanimously elected President of the Association for the ensuing year.

The Secretary and Treasurer and the Executive Committee may be voted for together, unless a division is called for.

Mr. Stevens :

I move that the President be requested to cast the ballot of the Association for the Secretary and Treasurer and members of the Executive Committee.

E. M. Bartlett, of Nebraska :

I second the motion.

The President :

The motion, as the Chair understands it, is that the President, where the Secretary is one of the officers to be elected, shall cast the ballot of the Association ; and that where he is not one of those to be elected, that then the Secretary shall cast the ballot.

The motion was adopted.

The President :

The President announces that, having cast the ballot pursuant to the direction of the Association, the following gentlemen are unanimously elected :

For Secretary : John Hinkley, of Maryland.

For Treasurer : Francis Rawle, of Pennsylvania.

And I will ask the Secretary now to cast the vote of the Association for the members of the Executive Committee.



The Secretary cast the ballot of the Association for the elective members of the Executive Committee, who were then declared elected, as follows :

William A. Ketcham, of Indiana.

Henry St. George Tucker, of Virginia.

Charles F. Libby, of Maine.

Rodney A. Mercur, of Pennsylvania.

James Hagerman, of Missouri.

The President :

The next officers to be elected are the Vice-Presidents and members of the Local Councils, whose names have already been announced.

William L. Taylor :

I move that the Secretary be instructed to cast the ballot of the Association for the election of the gentlemen whose names have already been read.

The Secretary cast the ballot and the gentlemen nominated for Vice-Presidents and members of the Local Councils were declared to be unanimously elected.

*(See List of Officers.)*

The President :

Gentlemen, this concludes the business of this Association at this meeting, and in laying down the gavel I can only once more thank you, not only for the high honor conferred upon me—and I know none higher in the profession than that which was conferred by electing me as your President, and for it I take this opportunity to give to the Association my most heartfelt thanks—but, also, for the warm, generous and kind support which whenever called upon and under all circumstances, I have received at your hands.

In leaving the office I can only express the hope and the belief that our prosperity in the past will be exceeded by our prosperity in the time to come.

Calls were made for the President-elect.

U. M. Rose, of Arkansas :

You have done me the greatest honor that could be conferred by the Association, a body not inferior in intelligence, I believe, to any in the land ; and I should be unworthy of that honor if I was not deeply sensible of its magnitude. I am not unaware of my deficiencies or of the weighty responsibilities attending the position thus conferred ; but I am consoled by a remark just made by my distinguished and immediate predecessor to the effect that during the whole course of his official term he has been met by the responsive kindness of every member of the Association. I can only hope that you will extend the same kindness to one who, occupying the same position, will stand more in need of your indulgence.

Allow me to return my sincere thanks not only for the honor thus bestowed, but also to you individually and collectively for many courtesies and acts of kindness received in the years that have passed since our organization had its birth ; and to express the hope that hereafter, as heretofore, all of our members may work in unity of spirit and endeavor for the upbuilding of an institution which stands for law and order, and for the promotion of whatever is best in the domain of that jurisprudence which must always deeply affect the interests and happiness of the people of the country in which we live.

The meeting then adjourned *sine die*.

JOHN HINKLEY,  
*Secretary.*

## SECRETARY'S REPORT.

DENVER, COLORADO, August 21, 1901.

The report of the proceedings of our last meeting at Saratoga Springs, in August, 1900, has been printed and distributed to all the members, and also to the large and constantly increasing number of libraries and Bar Associations on our free mailing list.

There were 1540 members at the close of the last meeting. Thirty-five members have been elected by the Executive Committee between meetings, under Article IV of the Constitution as amended.

All of the states and territories are represented in our membership, except the state of Nevada and the territories of New Mexico, Indian Territory and Alaska.

Invitations were sent to all State Bar Associations to send three delegates to this meeting, and to all City and County Bar Associations, in states having no State Bar Association, to send two delegates. There are now thirty-nine State Bar Associations, two Territorial Bar Associations, the Bar Association of the District of Columbia and about two hundred and sixty local Bar Associations.

Reports of the Committees on Commercial Law and on International Law for this year have been printed and distributed to members by mail fifteen days before the meeting.

Notices were sent to all members of standing and special committees, requesting their attention to matters referred to such committees.

In accordance with the resolution passed last year, circulars were sent to all State Bar Associations asking for a brief outline or summary of the year's work. A number of reports have been received and will be referred by the Secretary to the Publication Committee.

The register of those in attendance is kept on the table at the hall of meeting during the sessions, and is at the reception room in the Brown Palace Hotel in the intervals. This list is valuable for reference, and every member or delegate is requested to sign it as early as convenient. A list of those present will be printed for distribution at the meeting, and will also be included in the report of proceedings.

There are copies of the constitution, lists of officers and members of committees and forms of nominations on the table for distribution.

Respectfully submitted,

JOHN HINKLEY,

*Secretary.*

# TREASURER'S REPORT.

1900-1901.

*Dr.*

To balance from last report, . . . . .		\$3,456 97
" cash received—dues of members, . . . . .	\$7,310 00	
" " " —interest on special deposit, . . . . .	15 00	
" " " —sale of Reports, . . . . .	72 05	7,397 05
		<hr/>
		\$10,854 02

*Cr.*

1900.			
Aug. 31.	By cash paid—Incidental expenses of		
	23rd Annual Dinner, .	\$28 85	
31.	" " " —Printing for account of		
	Committee on Legal		
	Education, etc., . . . . .	6 00	
31.	" " " —C. F. Manderson, print-		
	ing expenses as Presi-		
	dent, . . . . .	179 25	
Sept. 4.	" " " —Expenses of Treasurer's		
	Clerk to Saratoga, 23d		
	Annual Meeting, . . . . .	44 50	
5.	" " " —Grand Union Hotel,		
	Saratoga, 23d Annual		
	Dinner, . . . . .	1,012 40	
0.	" " " —Printed stamped en-		
	velopes, . . . . .	63 60	
10.	" " " —C. A. Morrison, Steno-		
	grapher, 23d Annual		
	Meeting, . . . . .	208 25	
24.	" " " —Secretary, for balance of		
	disbursements for Clerk		
	hire, Stationery, etc.,		
	for year, . . . . .	265 05	
		<hr/>	
	Amount carried forward, . . . . .	\$1,807 90	\$10,854 02

1900.			By amount brought forward, . .	\$1,807 90	\$10,854 02
Sept. 29.			By cash paid—Expenses of Committee on Uniform State Laws for year ending August, 1900, . . . . .	100 00	
Oct. 10.	"	"	" —U. S. Express Co., ex- pressage on sundry pack- ages of books, etc., . .	12 01	
Nov. 26.	"	"	" —"Saratogian," printing 23d Annual Meeting, .	74 00	
Dec. 10.	"	"	" —On account of expenses of Committee on Legal Education, . . . . .	100 00	
10.	"	"	" —Three months' rent of storage room, . . . .	30 00	
13.	"	"	" —Henry Budd, expenses as member of Committee on Commercial Law, .	5 00	
13.	"	"	" —Murphy Co., receipt book, . . . . .	6 75	
17.	"	"	" —J. T. Mason, B., ex- penses as member of Committee on Commer- cial Law, . . . . .	25 00	
1901.					
Feb. 8.	"	"	" —Expenses of Committee on Legal Education, . .	100 00	
13.	"	"	" —H. St. G. Tucker, ex- penses in attending meeting of Executive Committee, . . . . .	6 00	
13.	"	"	" —E. Wetmore, expenses in attending meeting of Executive Committee, .	20 00	
23.	"	"	" —W. A. Ketcham, ex- penses in attending meeting of Executive Committee, . . . . .	37 50	
Amount carried forward, . . .				\$2,324 16	\$10,854 02

# REPORT OF THE TREASURER.

55

1901.			By amount brought forward, . .	\$2,324 16	\$10,854 02
Feb. 23.	By cash paid—	Three months' rent of storage room, . . . .		30 00	
Mch. 1.	" " "	—W. W. Howe, balance of expenses of John Marshall Day Committee, . . . . .		30 25	
10.	" " "	—Bill posting, 23d Annual Meeting, . . . .		7 50	
10.	" " "	—Expenses of Committee on Legal Education for current year, . . . . .		30 00	
20.	" " "	—Preparing 23d Report for delivery by express, . . . . .		16 02	
June 3.	" " "	—Three months' rent, storage room, . . . .		30 00	
13.	" " "	—U. S. Express Co., expressage on sundry packages, . . . . .		4 50	
July 5.	" " "	—U. S. Express Co., expressage on 23d Annual Report to members, etc., . . . . .		386 91	
12.	" " "	—Insurance on books, etc., . . . . .		8 50	
12.	" " "	—Postage, . . . . .		31 00	
16.	" " "	—Stenographer to Treasurer, . . . . .		42 00	
31.	" " "	—Expenses of Committee on Legal Education for current year, . . . . .		115 84	
Aug. 1.	" " "	—Murphy Co., receipt book, . . . . .		7 75	
5.	" " "	—Treasurer's clerk, salary for year ending August 20, 1901, . . . . .		350 00	
5.	" " "	—Cost of mailing Committee Reports to members, etc., . . . . .		20 32	
Amount carried forward, . . .				\$3,434 75	\$10,854 02

## AMERICAN BAR ASSOCIATION.

1901.			By amount brought forward, . .	\$3,434 75	\$10,854 02
Aug. 5.	"	"	" —Dando Print. & Pub. Co., printing and bind- ing 23d Annual Report,	1,943 85	
5.	"	"	" —Same, printing extra copies of papers, ad- dresses, etc., . . . . .	349 50	
5.	"	"	" —Same, stamped envel- opes, circulars and gen- eral printing to date, .	273 67	
	"	"	" —Sundry expenses, tele- grams, expressage, etc., for one year, . . . . .	48 11	
			Balance, . . . . .	\$4,804 14	
				<u>\$10,854 02</u>	<u>\$10,854 02</u>

Which balance consists of—

Amount to credit of Treasurer in Quaker City Nat. Bank, Philadelphia, . . . . .	4,290 92
Certificate of deposit in Union Trust Company of Philadel- phia, at 3 per cent. interest, .	500 00
Cash on hand, . . . . .	13 22
	<u>\$4,804 14</u>

Respectfully submitted,

FRANCIS RAWLE,

*Treasurer.*

DENVER, COL., August 21, 1901.

Audited with the vouchers and found correct.

ROB'T H. PARKINSON,

AMASA M. EATON,

*Auditing Committee.*

Denver, Col., August 22, 1901.



# REPORT OF THE EXECUTIVE COMMITTEE.

DENVER, COLORADO, August 21, 1901.

The Executive Committee respectfully report that under the last clause of Article IV of the Constitution, providing for the election of members by the Executive Committee between meetings when nominated by a majority of the Vice-President and Local Council, the following thirty-five members were elected :

JAMES M. BECK, . . . . .	Philadelphia, Pa.
SPENCER WEART, . . . . .	Jersey City, N. J.
NORMAN S. DIKE, . . . . .	New York, N. Y.
GEORGE S. VAN SLYCK, . . . . .	New York, N. Y.
LESTER L. BOND, . . . . .	Chicago, Ill.
JOHN MARSHALL HARLAN, . . . . .	Washington, D. C.
JAMES R. STERETT, . . . . .	Pittsburg, Pa.
FREDERICK M. STONE, . . . . .	Boston, Mass.
WILLIAM C. LAWSON, . . . . .	Chicago, Ill.
ENOS CLARKE, . . . . .	St. Louis, Mo.
JESSE H. BLAIR, . . . . .	Denver, Col.
LUCIUS M. CUTHBERT, . . . . .	Denver, Col.
HARRY C. DAVIS, . . . . .	Denver, Col.
JOHN A. EWING, . . . . .	Leadville, Col.
W. A. HAGGOTT, . . . . .	Idaho Springs, Col.
THOMAS H. HARDCASTLE, . . . . .	Denver, Col.
FRANK E. GOVE, . . . . .	Denver, Col.
A. T. GUNNELL, . . . . .	Colorado Springs, Col.
LUCIUS W. HOYT, . . . . .	Denver, Col.
HARVEY RIDDLE, . . . . .	Denver, Col.
JAMES C. STARKWEATHER, . . . . .	Denver, Col.
RALPH TALBOT, . . . . .	Denver, Col.
J. H. VOORHEES, . . . . .	Pueblo, Col.
RICHARD H. WHITELEY, . . . . .	Boulder, Col.
EDWARD A. SUMNER, . . . . .	New York, N. Y.
CHARLES W. BURDICK, . . . . .	Cheyenne, Wyo.

HUGH V. MERCER, . . . . .	Minneapolis, Minn.
SAMUEL L. CARPENTER, . . . . .	Denver, Col.
DONELSON CAFFERY, . . . . .	Franklin, La.
HENRY W. WILLIAMS, . . . . .	Baltimore, Md.
CHARLES MORRIS HOWARD, . . . . .	Baltimore, Md.
C. F. REAVIS, . . . . .	Falls City, Neb.
FRANK IRVINE, . . . . .	Lincoln, Neb.
W. T. ELLIS, . . . . .	Owensboro, Ky.
D. H. HUGHES, . . . . .	Morganfield, Ky.

Your committee further report that in accordance with the 12th By-Law, appropriations were made for the use of committees for the year 1900-1901 on their application, not exceeding the following amounts :

\$500 to Committee on Legal Education and Admission to the Bar.

\$100 to Committee on Uniform State Laws.

\$130 to Committee on Commercial Law.

\$750 to Committee on "John Marshall Day."

All committees for the ensuing year whose work may entail expense, are requested to conform to the 12th By-Law, which requires "previous application in advance of the expenditure." Such application should be made to the Executive Committee through the Secretary.

Respectfully submitted,

EDMUND WETMORE,  
JOHN HINKLEY,  
CHARLES F. MANDERSON,  
U. M. ROSE,  
FRANCIS RAWLE,  
W. A. KETCHAM,  
CHARLES F. LIBBY,  
RODNEY A. MERCUR,  
*Executive Committee.*

# MEMBERS AND DELEGATES REGISTERED

AT THE

TWENTY-FOURTH ANNUAL MEETING.

1901.

EDMUND WETMORE, . . . . . New York.  
*President.*

JOHN HINKLEY, . . . . . Maryland.  
*Secretary.*

FRANCIS RAWLE, . . . . . Pennsylvania.  
*Treasurer.*

CHARLES F. MANDERSON, . . . . . Nebraska.

U. M. ROSE, . . . . . Arkansas.

W. A. KETCHAM, . . . . . Indiana.

CHARLES F. LIBBY, . . . . . Maine.

RODNEY A. MERCUR, . . . . . Pennsylvania.  
*Executive Committee.*

## ALASKA.

BROWN, MELVILLE C., . . . . . Juneau.

## ARIZONA TERRITORY.

ELLINWOOD, E. E., . . . . . Flagstaff.

HERNDON, J. C., . . . . . Prescott.

## ARKANSAS.

CANTRELL, D. H., . . . . . Little Rock.

COCKRILL, ASHLEY, . . . . . Little Rock.

FLETCHER, JOHN, . . . . . Little Rock.

ROSE, U. M., . . . . . Little Rock.

## CALIFORNIA.

GIBSON, JAMES A., . . . . . Los Angeles.

HELM, LYNN, . . . . . Los Angeles.

MONROE, CHARLES, . . . . . Los Angeles.

OLNEY, WARREN, . . . . . San Francisco.

ROSE, WALTER T. J., . . . . . Los Angeles.

## COLORADO.

BABB, H. B., . . . . .	Denver.
BENNETT, EDMON G., . . . . .	Denver.
BLAIR, JESSE H., . . . . .	Denver.
BLOOD, JAMES H., . . . . .	Denver.
BROOKS, FRANKLIN E., . . . . .	Colorado Springs.
BRYANT, W. H., . . . . .	Denver.
BUTLER, HUGH, . . . . .	Denver.
CAMPBELL, CHARLES M., . . . . .	Denver.
CARPENTER, M. B., . . . . .	Denver.
CARPENTER, S. L., . . . . .	Denver.
CAVENDER, CHARLES, . . . . .	Leadville.
CURTIS, LEONARD E., . . . . .	Colorado Springs.
CUTBERT, L. M., . . . . .	Denver.
DAVIS, HARRY C., . . . . .	Denver.
DINES, ORVILLE L., . . . . .	Denver.
DINES, TYSON S., . . . . .	Denver.
EWING, JOHN A., . . . . .	Leadville.
FOOTE, ROBERT E., . . . . .	Denver.
FOWLER, A. J., . . . . .	Denver.
FOWLER, J. A., . . . . .	Denver.
GABRIEL, JOHN H., . . . . .	Denver.
GAST, CHARLES E., . . . . .	Pueblo.
GORDON, JOHN A., . . . . .	Denver.
GREGG, F. E., . . . . .	Denver.
GRIER, ALBERT E., . . . . .	Denver.
GUNNELL, A. T., . . . . .	Colorado Springs.
GROZIER, JOSHUA, . . . . .	Denver.
GUNTER, JULIUS C., . . . . .	Trinidad.
HALLETT, MOSES, . . . . .	Denver.
HAYNES, H. N., . . . . .	Greeley.
HERSEY, HENRY J., . . . . .	Denver.
HERRINGTON, CASS E., . . . . .	Denver.
HODGES, GEORGE L., . . . . .	Denver.
HOOD, THOMAS A., . . . . .	Denver.
HOYT, LUCIUS W., . . . . .	Denver.
HUGHES, CHARLES J., JR., . . . . .	Denver.
KILLIAN, JAMES R., . . . . .	Denver.
KNAEBEL, JOHN H., . . . . .	Denver.
LINSEY, BENJAMIN B., . . . . .	Denver.
LUNT, HORACE G., . . . . .	Colorado Springs.
MANLY, GEORGE A., . . . . .	Denver.
MAY, H. F., . . . . .	Denver.
MERRIMAN, CHARLES A., . . . . .	Alamosa.

## COLORADO—Continued.

MILLS, J. WARNER, . . . . .	Denver.
MCALLISTER, HENRY, JR., . . . . .	Colorado Springs.
MCCARTHY, T. F., . . . . .	Denver.
MCCREERY, JAMES W., . . . . .	Greeley.
MCLEAN, LESTER, . . . . .	Denver.
O'DONNELL, T. J., . . . . .	Denver.
PETERS, MEL EMERSON, . . . . .	Denver.
REGENNITTER, ERWIN L., . . . . .	Idaho Springs.
ROGERS, HENRY T., . . . . .	Denver.
ROGERS, PLATT, . . . . .	Denver.
SMITH, JOHN R., . . . . .	Denver.
STARKWEATHER, JAMES C., . . . . .	Denver.
STEELE, ROBERT W., . . . . .	Denver.
STEVENSON, A. M., . . . . .	Denver.
STIMSON, EDWARD C., . . . . .	Colorado Springs.
TALBOTT, RALPH, . . . . .	Denver.
THAYER, RUFUS C., . . . . .	Colorado Springs.
TROWBRIDGE, HENRY, . . . . .	Cripple Creek.
VATES, WILLIAM B., . . . . .	Pueblo.
WADLEY, WILLIAM H., . . . . .	Denver.
WALLING, STUART D., . . . . .	Denver.
WHITE, S. HARRISON, . . . . .	Pueblo.
WHITELEY, RICHARD H., . . . . .	Boulder.

## CONNECTICUT.

BALDWIN, SIMEON E., . . . . .	New Haven.
BREWSTER, LYMAN D., . . . . .	Danbury.
TOWNSEND, W. K., . . . . .	New Haven.

## DELAWARE.

CURTIS, CHARLES M., . . . . .	Wilmington.
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## DISTRICT OF COLUMBIA.

BROWNE, ADDIS B., . . . . .	Washington.
CHURCH, MELVILLE, . . . . .	Washington.
DAVIS, HENRY E., . . . . .	Washington.
McGILL, J. NOTA, . . . . .	Washington.

## FLORIDA.

WILLIAMS, R. W., . . . . .	Tallahassee.
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## GEORGIA.

AKIN, JOHN W.,	Carterville.
GARRARD, LOUIS F.,	Columbus.
LUMPKIN, SAMUEL,	Atlanta.
MELDRIM, P. W.,	Savannah.
MERRILL, J. H.,	Thomasville.
SMITH, BURTON,	Atlanta.

## ILLINOIS.

ANDREWS, JAMES D.,	Chicago.
BARTON, GEORGE P.,	Chicago.
BOND, L. L.,	Chicago.
BURROUGHS, B. R.,	Edwardsville.
CAPEH, CHARLES L.,	Bloomington.
DENT, THOMAS,	Chicago.
DREW, WILLIAM L.,	Champaign.
ESTABROOK, HENRY D.,	Chicago.
FOLLANSBEE, GEORGE A.,	Chicago.
HARRIMAN, E. A.,	Chicago.
HOLDOM, JESSE,	Chicago.
MOSES, ADOLPH,	Chicago.
OGDEN, HOWARD N.,	Chicago.
O'NEILL, HUGH,	Chicago.
PADDOCK, GEORGE L.,	Chicago.
PAGE, GEORGE T.,	Peoria.
PARKINSON, ROBERT H.,	Chicago.
SHERMAN, E. B.,	Chicago.
SMITH, EDWIN BURRITT,	Chicago.
WHEELER, ARTHUR DANA,	Chicago.
ZEISLER, SIGMUND,	Chicago.

## INDIANA.

BREEN, WILLIAM P.,	Fort Wayne.
CLARKE, GEORGE E.,	South Bend.
DAVIS, THEODORE P.,	Indianapolis.
KETCHAM, WILLIAM A.,	Indianapolis.
MARTINDALE, CHARLES,	Indianapolis.
MORRIS, JOHN, JR.,	Fort Wayne.
PALMER, T. F.,	Monticello.
PAUL, GUSTAV,	Evansville.
PICKENS, SAMUEL O.,	Indianapolis.
REINHARD, GEORGE L.,	Bloomington.
ROGERS, W. P.,	Bloomington.
SPENCER, CHARLES C.,	Monticello.
TAYLOR, WILLIAM L.,	Indianapolis.
WARD, WILBERT,	South Bend.

## IOWA.

COLE, C. C., . . . . .	Des Moines.
CROSBY, JAMES O., . . . . .	Garnaville.
EATON, WILLARD L., . . . . .	Osage.
ERICKSON, ALEXANDER, . . . . .	Sioux Falls.
HAINES, ROBERT M., . . . . .	Grinnell.
HUNTER, ROBERT, . . . . .	Sioux Falls.
KNIGHT, W. J., . . . . .	Dubuque.
LONGUEVILLE, J. C., . . . . .	Dubuque.
MCCLAINE, EMLIN, . . . . .	Iowa City.
MCCONLOGUE, J. H., . . . . .	Mason City.
QUARTON, WILLIAM B., . . . . .	Algona.
REED, H. T., . . . . .	Cresco.
RICHARDS, HARRY S., . . . . .	Iowa City.
ROBERTS, W. J., . . . . .	Keokuk.
SWISHER, A. E., . . . . .	Iowa City.
YOUNKER, B. A., . . . . .	Des Moines.

## KANSAS.

CAMPBELL, PHILIP P., . . . . .	Pittsburg.
ECKSTEIN, O. G., . . . . .	Wichita.
HIGGINS, WM. E., . . . . .	Lawrence.
HOLT, WILLIAM G., . . . . .	Kansas City.
MARTIN, FRANK R., . . . . .	Hutchinson.
MILLIKEN, JOHN D., . . . . .	McPherson.
MOORE, J. MCCABE, . . . . .	Kansas City.
SMITH, CHAS. BLOOD, . . . . .	Topeka.
WHITESIDE, H., . . . . .	Hutchinson.
WILLIAMS, CHAS. M., . . . . .	Hutchinson.

## KENTUCKY.

RAY, CHARLES T., . . . . .	Louisville.
TONNEY, STERLING B., . . . . .	Louisville.
TRABUE, EDMUND F., . . . . .	Louisville.

## MAINE.

LIBBY, CHARLES F., . . . . .	Portland.
LITTLEFIELD, CHARLES E., . . . . .	Rockland.

## MARYLAND.

GAITHER, GEORGE R., . . . . .	Baltimore.
HINKLEY, JOHN, . . . . .	Baltimore.
PURNELL, CLAYTON, . . . . .	Frostburg.
ROBINSON, THOS. H., . . . . .	Bel Air.
WATERS, J. S. T., . . . . .	Baltimore.
WILLIAMS, S. A., . . . . .	Bel Air.

## MASSACHUSETTS.

BEALE, JOSEPH H., JR.,	Cambridge.
BENNETT, SAMUEL C.,	Boston.
DEWEY, HENRY S.,	Boston.
KELLEN, WILLIAM V.,	Boston.

## MICHIGAN.

BALL, DAN H.,	Marquette.
HYDE, WESLEY W.,	Grand Rapids.
LANE, V. H.,	Ann Arbor.
MOORE, J. B.,	Lansing.

## MINNESOTA.

ALBERT, CHARLES S.,	Minneapolis.
BROWN, FREDERICK V.,	Minneapolis.
MASON, ALFRED F.,	St. Paul.
PAIGE, JAMES,	Minneapolis.
STEVENS, HIRAM F.,	St. Paul.

## MISSOURI.

ALLEN, CHARLES CLAFLIN,	St. Louis.
CURTIS, WM. S.,	St. Louis.
DODSON, CHAS. L.,	Kansas City.
DOUGLAS, WALTER B.,	St. Louis.
HAGERMAN, JAMES,	St. Louis.
LADD, SANFORD B.,	Kansas City.
McLANE, JAS. A.,	Fayette.
NEW, ALEXANDER,	Kansas City.
PALMER, CLARENCE S.,	Kansas City.
ROBERTSON, GEORGE,	Mexico.
ROBINSON, W. M.,	Jefferson City.
SERREE, FRANK P.,	Kansas City.
SPENCER, SELDEN P.,	St. Louis.
TITUS, FRANK,	Kansas City.
WARD, CLARENCE C.,	St. Louis.
WARD, HUGH C.,	Kansas City.

## MONTANA.

SANDERS, J. U.,	Helena.
SANDERS, W. F.,	Helena.



## NEBRASKA.

BALDRIDGE, H. H.,	Omaha.
BARTLETT, E. M.,	Omaha.
BRECKENRIDGE, RALPH W.,	Omaha.
BROGAN, F. A.,	Omaha.
CORCORAN, GEO. F.,	York.
DUNDEY, CHARLES L.,	Omaha.
ELGUTTER, CHARLES S.,	Omaha.
HAINER, EUGENE J.,	Aurora.
HASTINGS, W. G.,	Wilbur.
HATFIELD, I. H.,	Lincoln.
IRVINE, FRANK,	Lincoln.
LANGDON, MARTIN,	Omaha.
LETTON, CHAR. B.,	Fairbury.
MANDERSON, CHARLES F.,	Omaha.
MONTGOMERY, C. S.,	Omaha.
PATRICK, WM. R.,	Papillion.
PROUT, F. N.,	Lincoln.
REESE, M. B.,	Lincoln.
ROBBINS, C. A.,	Lincoln.
SMYTH, C. J.,	Omaha.
STUBBS, G. W.,	Superior.
WAKELEY, A. C.,	Omaha.
WAKELEY, ELEAZER,	Omaha.
WILSON, HENRY H.,	Lincoln.
WOODS, FRANK H.,	Lincoln.
WOOLLEY, JAMES H.,	Grand Island.
WOOLWORTH, J. M.,	Omaha.

## NEW JERSEY.

BERGEN, J. J.,	Somerville.
KEASBEY, EDWARD Q.,	Newark.
SHIPMAN, GEORGE M.,	Belvidere.
SWAYZE, FRANCIS J.,	Newark.

## NEW MEXICO.

JONES, A. A.,	Las Vegas.
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## NEW YORK.

ASHLEY, CLARENCE D.,	New York.
BINNEY, HAROLD,	New York.
FIERO, J. NEWTON,	Albany.
HUFFCUTT, E. W.,	Ithaca.

## NEW YORK—Continued.

JOHNSTON, THOS. J., . . . . .	New York.
LOGAN, WALTER S., . . . . .	New York.
PARKER, ALTON B., . . . . .	Kingston.
WETMORE, EDMUND, . . . . .	New York.

## NORTH DAKOTA.

AUSTIN, JAMES M., . . . . .	Ellendale.
-----------------------------	------------

## OHIO.

GEDDESS, FREDERICK L., . . . . .	Toledo.
HADDEN, ALEX., . . . . .	Cleveland.
HEPBURN, CHARLES M., . . . . .	Cincinnati.
HOPKINS, EVAN H., . . . . .	Cleveland.
HUNT, CHARLES J., . . . . .	Cincinnati.
ROBERTSON, C. D., . . . . .	Cincinnati.
SALTZGABER, G. M., . . . . .	Van Wert.
TROUP, JAMES O., . . . . .	Bowling Green.
WHEELER, S. S., . . . . .	Lima.

## OKLAHOMA TERRITORY.

HAINER, BAYARD T., . . . . .	Perry.
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## OREGON.

BEAN, R. S., . . . . .	Salem.
MOORE, F. A., . . . . .	Salem.

## PENNSYLVANIA.

BERTOLETTE, FREDERICK, . . . . .	Mauch Chunk.
DALE, RICHARD C., . . . . .	Philadelphia.
GIVEN, WILLIAM B., . . . . .	Columbia.
HENSEL, W. U., . . . . .	Lancaster.
LANDIS, CHARLES J., . . . . .	Lancaster.
MERCUR, RODNEY A., . . . . .	Towanda.
NILES, HY. C., . . . . .	York.
PATTERSON, THOS., . . . . .	Pittsburg.
RAWLE, FRANCIS, . . . . .	Philadelphia.
STAAKE, WILLIAM H., . . . . .	Philadelphia.
STEELE, H. J., . . . . .	Easton.
WOLVERTON, S. P., . . . . .	Sunbury.

## RHODE ISLAND.

EATON, AMASA M., . . . . .	Providence.
POTTER, DEXTER B., . . . . .	Providence.

## SOUTH DAKOTA.

BAILEY, C. O., . . . . . Sioux Falls.

## TENNESSEE.

CAMP, E. C., . . . . . Knoxville.  
 HEISKELL, F. H., . . . . . Memphis.  
 PILCHER, JAMES S., . . . . . Nashville.  
 ROSEBROUGH, W. S., . . . . . Memphis.

## TEXAS.

ALEXANDER, L. C., . . . . . Waco.  
 AUTRY, JAS. L., . . . . . Corsicana.  
 BURGESS, WM. H., . . . . . El Paso.  
 CARLOCK, R. L., . . . . . Fort Worth.  
 DILLARD, F. C., . . . . . Sherman.  
 DUFF, R. C., . . . . . Beaumont.  
 GOULD, GEO. H., . . . . . Palestine.  
 KEMP, WYNDHAM, . . . . . El Paso.  
 LINDSLEY, PHILIP, . . . . . Dallas.  
 SPOONTE, M. A., . . . . . Fort Worth.  
 WEST, ROBERT G., . . . . . Austin.

## UTAH.

CRITCHLOW, E. B., . . . . . Salt Lake City.  
 KINNEY, CLESON S., . . . . . Salt Lake City.  
 VARIAN, CHARLES S., . . . . . Salt Lake City.  
 WELLS, DANIEL H., JR., . . . . . Salt Lake City.

## VIRGINIA.

CABELL, J. AUSTIN, . . . . . Richmond.  
 GLASGOW, W. A., JR., . . . . . Roanoke.  
 GRIFFIN, S., . . . . . Bedford City.  
 GRINNAN, DAN'L, . . . . . Richmond.  
 MINOR, RALEIGH C., . . . . . Charlottesville.  
 MCINTOSH, J. R., . . . . . Richmond.  
 PATTESON, S. S. P., . . . . . Richmond.  
 TOWNE, W. A., . . . . . Richmond.

## WEST VIRGINIA.

PRICE, GEO. E., . . . . . Charleston.  
 VAN WINKLE, W. W., . . . . . Parkersburg.

## WISCONSIN.

BARTLETT, W. P., . . . . .	Eau Claire.
BASHFORD, R. M., . . . . .	Madison.
BRUCE, ANDREW A., . . . . .	Madison.
GREGORY, CHARLES NOBLE, . . . . .	Madison.
SMITH, HOWARD L., . . . . .	Madison.
WINKLER, F. C., . . . . .	Milwaukee.

## WYOMING.

BURDICK, C. W., . . . . .	Cheyenne.
BURKE, T. F., . . . . .	Cheyenne.
CLARK, GIBSON, . . . . .	Cheyenne.
CORTHELL, N. E., . . . . .	Laramie.
KNIGHT, JESSE, . . . . .	Cheyenne.
POTTER, CHAS. N., . . . . .	Cheyenne.
VAN ORSDER, J. A., . . . . .	Cheyenne.

Total Registered, 306.

## DELEGATES, 1901.

### BAR ASSOCIATION OF ARIZONA.

JOHN C. HERNDON, . . . . . Prescott.  
ROBERT E. MORRISON, . . . . . Prescott.  
E. E. ELLINWOOD, . . . . . Flagstaff.

### BAR ASSOCIATION OF ARKANSAS.

JAMES F. READ, . . . . . Fort Smith.  
JOHN FLETCHER, . . . . . Little Rock.  
THOMAS B. MARTIN, . . . . . Little Rock.

### LOS ANGELES BAR ASSOCIATION.

CHARLES MONROE, . . . . . Los Angeles.  
LYNN HELM, . . . . . Los Angeles.

### OAKLAND BAR ASSOCIATION.

VICTOR H. METCALF, . . . . . Oakland.  
GEORGE E. DeGOLIA, . . . . . Oakland.

### BAR ASSOCIATION OF SAN FRANCISCO.

WARREN OLNEY, . . . . . San Francisco.

### COLORADO BAR ASSOCIATION.

JULIUS C. GUNTHER, . . . . . Denver.  
JAMES W. McCREERY, . . . . . Denver.  
WILLARD TELLER, . . . . . Denver.

### DELAWARE STATE BAR ASSOCIATION.

CHARLES M. CURTIS, . . . . . Wilmington.

### GEORGIA BAR ASSOCIATION.

SAMUEL LUMPKIN, . . . . . Atlanta.  
JOSEPH H. MERRILL, . . . . . Thomasville.  
ROLAND ELLIS, . . . . . Macon.

### ILLINOIS STATE BAR ASSOCIATION.

THOMAS CRATTY, . . . . . Chicago.  
BENJAMIN R. BURROUGHS, . . . . . Edwardsville.  
CHARLES L. CAPEN, . . . . . Bloomington.

## STATE BAR ASSOCIATION OF INDIANA.

THEODORE P. DAVIS, . . . . . Indianapolis.  
 WILLIAM A. KETCHAM, . . . . . Indianapolis.  
 SAMUEL O. PICKENS, . . . . . Indianapolis.

## IOWA STATE BAR ASSOCIATION.

J. H. McCONLOGUE, . . . . . Mason City.  
 A. E. SWISHER, . . . . . Iowa City.  
 W. L. EATON, . . . . . Osage.

## BAR ASSOCIATION OF THE STATE OF KANSAS.

B. P. WAGGENER, . . . . . Atchison.  
 H. WHITESIDE, . . . . . Hutchinson.  
 W. G. HOLT, . . . . . Kansas City.

## MAINE STATE BAR ASSOCIATION.

HERBERT M. HEATH, . . . . . Augusta.  
 CLARENCE HALE, . . . . . Portland.  
 HUGH R. CHAPLIN, . . . . . Bangor.

## MARYLAND STATE BAR ASSOCIATION.

CLAYTON PURNELL, . . . . . Frostburg.  
 THOMAS H. ROBINSON, . . . . . Bel Air.  
 ALFRED S. NILES, . . . . . Baltimore.

## MICHIGAN STATE BAR ASSOCIATION.

WESLEY W. HYDE, . . . . . Grand Rapids.  
 HIRAM J. HOYT, . . . . . Muskegon.  
 VICTOR H. LANE, . . . . . Ann Arbor.

## MISSOURI BAR ASSOCIATION.

JOSEPH J. RUSSELL, . . . . . Charleston.  
 WILLIAM C. MARSHALL, . . . . . Jefferson City.  
 WALLACE PRATT, . . . . . Kansas City.

## NEW MEXICO BAR ASSOCIATION.

JOHN H. KNAEBEL, . . . . . Denver.  
 THOMAS B. CATRON, . . . . . Santa Fe.  
 A. A. JONES, . . . . . Las Vegas.

## NORTH CAROLINA BAR ASSOCIATION.

T. J. SHAW, . . . . . Greensboro.  
 CHARLES A. COOK, . . . . . Warrenton.  
 W. D. PRUDEN, . . . . . Edenton.

## STATE BAR ASSOCIATION OF NORTH DAKOTA.

JAMES M. AUSTIN, . . . . . Ellendale.

## OHIO STATE BAR ASSOCIATION.

JAMES O. TROUP, . . . . . Bowling Green.  
 J. M. SHEETS, . . . . .

## PENNSYLVANIA BAR ASSOCIATION.

H. J. STEELE, . . . . . Easton.  
 H. C. NILES, . . . . . York.  
 WILLIS F. MCCOOK, . . . . . Pittsburg.

## SOUTH DAKOTA BAR ASSOCIATION.

D. HANEY, . . . . . Pierre.  
 C. H. DILLON, . . . . . Yankton.  
 E. C. ERICSON, . . . . . Elk Point.

## BAR ASSOCIATION OF TENNESSEE.

F. H. HEISKELI, . . . . . Memphis.  
 W. S. ROSEBROUGH, . . . . . Memphis.

## TEXAS BAR ASSOCIATION.

JAMES L. AUTRY, . . . . . Corsicana.  
 M. A. SPOONTS, . . . . . Fort Worth.  
 PHILIP LINDSLEY, . . . . . Dallas.

## STATE BAR ASSOCIATION OF UTAH.

CLESON S. KINNEY, . . . . . Salt Lake City.  
 D. H. WELLS, JR., . . . . . Salt Lake City.  
 E. B. CRITCHLOW, . . . . . Salt Lake City.

## VIRGINIA STATE BAR ASSOCIATION.

SAMUEL GRIFFIN, . . . . . Bedford City.  
 RANDOLPH HARRISON, . . . . . Lynchburg.  
 RALEIGH C. MINOR, . . . . . Charlottesville.

## WEST VIRGINIA BAR ASSOCIATION.

GEORGE E. PRICE, . . . . . Charleston.

## LIST OF MEMBERS ELECTED.

### ALASKA TERRITORY.

HILLS, W. J., . . . . .	Juneau.
JENNINGS, ROBERT, . . . . .	Skagway.
PRICE, J. G., . . . . .	Skagway.

### ARKANSAS.

CANTRELL, DEADERICK HARRELL, . . . . .	Little Rock.
COCKRILL, ASHLEY, . . . . .	Little Rock.
FLETCHER, JOHN, . . . . .	Little Rock.
MARTIN, THOMAS B., . . . . .	Little Rock.
READ, JAMES F., . . . . .	Fort Smith.
SMITH, WILLIAM B., . . . . .	Little Rock.

### CALIFORNIA.

HELM, LYNN, . . . . .	Los Angeles.
ROSE, WALTER T. J., . . . . .	Los Angeles.

### COLORADO.

ALLEN, GEORGE W., . . . . .	Denver.
BABB, HENRY B., . . . . .	Denver.
BABBITT, KURNEL R., . . . . .	Colorado Springs.
BEAMAN, DAVID C., . . . . .	Denver.
BENNETT, EDMON G., . . . . .	Denver.
BISSELL, JULIUS B., . . . . .	Denver.
BONYNGE, ROBERT W., . . . . .	Denver.
BOUCK, FRANCIS E., . . . . .	Leadville.
BUTLER, CALVIN P., . . . . .	Denver.
CAMPBELL, NORMAN M., . . . . .	Colorado Springs.
CARPENTER, M. B., . . . . .	Denver.
CATLIN, F. D., . . . . .	Montrose.
CHITTENDEN, G. I., . . . . .	Denver.
CHURCHILL, EDMUND J., . . . . .	Denver.
COSTIGAN, GEORGE P., JR., . . . . .	Denver.
CURTIS, LEONARD E., . . . . .	Colorado Springs.
DAWSON, CLYDE C., . . . . .	Canon City.
DENISON, JOHN H., . . . . .	Denver.
DESOTO, E. D., . . . . .	Denver.
DIMMITT, GEORGE Z., . . . . .	Denver.



## COLORADO—Continued.

DINES, ORVILLE L., . . . . .	Denver.
DOUD, A. L., . . . . .	Denver.
DOWNER, SYLVESTER S., . . . . .	Boulder.
DUNKLEE, GEORGE F., . . . . .	Denver.
FOOTE, ROBERT E., . . . . .	Denver.
FOWLER, A. J., . . . . .	Denver.
FOWLER, JO. A., . . . . .	Denver.
GABBERT, WILLIAM H., . . . . .	Denver.
GABRIEL, JOHN H., . . . . .	Denver.
GILES, BRANCH H., . . . . .	Denver.
GODDARD, LUTHER M., . . . . .	Denver.
GORDEN, JOHN A., . . . . .	Denver.
GREGG, FRANK E., . . . . .	Denver.
GRIER, ALBERT E., . . . . .	Denver.
GROZIER, JOSHUA, . . . . .	Denver.
HALL, HENRY C., . . . . .	Colorado Springs.
HARRISON, WILLIAM B., . . . . .	Denver.
HAYNES, H. N., . . . . .	Greeley.
*HAYT, CHARLES D., . . . . .	Denver.
HERSEY, HENRY J., . . . . .	Denver.
HINCKLEY, L. E. C., . . . . .	Denver.
HODGES, GEORGE L., . . . . .	Denver.
HOOD, THOMAS H., . . . . .	Denver.
JOHNSON, HENRY V., . . . . .	Denver.
KELLOGG, E. B., . . . . .	Denver.
KENT, EDWARD, . . . . .	Denver.
KILLIAN, JAMES R., . . . . .	Denver.
LEE, HARRY H., . . . . .	Denver.
LINDSEY, BENJAMIN B., . . . . .	Denver.
LINDSLEY, HENRY A., . . . . .	Denver.
MANLY, GEORGE C., . . . . .	Denver.
MAUPIN, JOSEPH H., . . . . .	Canon City.
MERRIMAN, CHARLES A., . . . . .	Alamosa.
MILLS, J. WARNER, . . . . .	Denver.
MCALLISTER, HENRY, JR., . . . . .	Colorado Springs.
MCCARTHY, T. F., . . . . .	Denver.
MCCREERY, JAMES W., . . . . .	Greeley.
McKNIGHT, RICHARD, . . . . .	Denver.
MCLEAN, LESTER, . . . . .	Denver.
PARSONS, CHARLES C., . . . . .	Denver.
PATTON, A. NEWTON, . . . . .	Denver.
PETERS, MEL E., . . . . .	Denver.
REGENNITTER, ERWIN L., . . . . .	Idaho Springs.
SMITH, JOHN R., . . . . .	Denver.

## COLORADO—Continued.

STEVECK, GUY LeROY, . . . . .	Denver.
STIMSON, EDWARD C., . . . . .	Colorado Springs.
TATUM, LOUIS R., . . . . .	Denver.
TEARS, DANIEL W., . . . . .	Denver.
TEBBETTS, WILLIAM B., . . . . .	Denver.
THAYER, RUFUS C., . . . . .	Colorado Springs.
THOMSON, CHARLES I., . . . . .	Denver.
TROWBRIDGE, HENRY, . . . . .	Cripple Creek.
VANCISE, EDWIN, . . . . .	Denver.
VATES, WILLIAM B., . . . . .	Pueblo.
WADLEY, WILLIAM H., . . . . .	Denver.
WALLING, STUART D., . . . . .	Denver.
WARD, THOMAS, JR., . . . . .	Denver.
*WATERMAN, CHARLES W., . . . . .	Denver.
WHITE, S. HARRISON, . . . . .	Pueblo.
YEAMAN, CALDWELL, . . . . .	Denver.

## GEORGIA.

ARNOLD, REUBEN R., . . . . .	Atlanta.
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## ILLINOIS.

BURROUGHS, BENJAMIN R., . . . . .	Edwardsville.
CAPEN, CHARLES L., . . . . .	Bloomington.
DREW, WILLIAM L., . . . . .	Urbana.
FOLLANSBEE, GEORGE A., . . . . .	Chicago.
OGDEN, HOWARD N., . . . . .	Chicago.
O'NEILL, HUGH, . . . . .	Chicago.
SCOTT, JAMES B., . . . . .	Champaign.

## INDIAN TERRITORY.

JACKSON, CLIFFORD L., . . . . .	Muscogee.
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## INDIANA.

BURKE, FRANK B., . . . . .	Indianapolis.
CADY, FREDERICK W., . . . . .	Indianapolis.
CLAPHAM, WILLIAM E., . . . . .	Bloomington.
DAVIS, THEODORE P., . . . . .	Indianapolis.
GOODRICH, JAMES P., . . . . .	Winchester.
VINTON, HENRY H., . . . . .	LaFayette.
WARD, WILBERT, . . . . .	South Bend.

**IOWA.**

COLE, C. C., . . . . .	Des Moines.
DEVITT, J. F., . . . . .	Muscatine.
EATON, W. L., . . . . .	Osage.
ERICKSON, ALEXANDER, . . . . .	Sioux City.
HAINES, ROBERT M., . . . . .	Grinnell.
HUNTER, ROBERT, . . . . .	Sioux City.
LONGUEVILLE, J. C., . . . . .	Dubuque.
MONEIT, WILLIAM, . . . . .	Ottumwa.
REED, H. T., . . . . .	Cresco.
ROBERTS, W. J., . . . . .	Keokuk.
SWISHER, A. E., . . . . .	Iowa City.
YOUNKER, B. A., . . . . .	Des Moines.

**KANSAS.**

CAMPBELL, PHILIP P., . . . . .	Pittsburgh.
ECKSTEIN, O. G., . . . . .	Wichita.
GREEN, J. W., . . . . .	Lawrence.
HIGGINS, WILLIAM E., . . . . .	Lawrence.
HOLT, WILLIAM G., . . . . .	Kansas City.
MARTIN, FRANK L., . . . . .	Hutchinson.
MOORE, J. McCABE, . . . . .	Kansas City.
WHITESIDE, HOUSTON, . . . . .	Hutchinson.
WILLIAMS, CHARLES M., . . . . .	Hutchinson.

**KENTUCKY.**

ALLEN, LAFON, . . . . .	Louisville.
RAY, CHARLES T., . . . . .	Louisville.

**MARYLAND.**

PURNELL, CLAYTON, . . . . .	Frostburg.
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**MICHIGAN.**

BUNDY, McGEORGE, . . . . .	Grand Rapids.
LANE, V. H., . . . . .	Ann Arbor.

**MINNESOTA.**

ALBERT, CHARLES S., . . . . .	Minneapolis.
BROWN, ROME G., . . . . .	Minneapolis.
KERR, WILLIAM A., . . . . .	Minneapolis.
LANCASTER, WILLIAM A., . . . . .	Minneapolis.
MASON, ALFRED F., . . . . .	St. Paul.
PAIGE, JAMES, . . . . .	Minneapolis.

## MISSOURI.

MAJOR, SAMUEL C., . . . . .	Fayette.
McLANE, JAMES A., . . . . .	Kansas City.
PALMER, CLARENCE S., . . . . .	Kansas City.
PHILIPS, JOHN F., . . . . .	Kansas City.
ROBERTSON, GEORGE, . . . . .	Mexico.
ROBINSON, WALTOUR M., . . . . .	Jefferson City.
SEBREE, GEORGE M., . . . . .	Springfield.
WARD, CLARENCE C., . . . . .	St. Louis.
WURDEMAN, G. A., . . . . .	St. Louis.

## NEBRASKA.

BALDRIDGE, HOWARD H., . . . . .	Omaha.
BLACKBURN, THOMAS W., . . . . .	Omaha.
BREEN, JOHN P., . . . . .	Omaha.
DUNDEY, CHARLES L., . . . . .	Omaha.
ELGUTTER, CHARLES S., . . . . .	Omaha.
GEISTHARDT, STEPHEN L., . . . . .	Lincoln.
GREENE, ROBERT J., . . . . .	Lincoln.
HAINER, EUGENE J., . . . . .	Aurora.
HAINER, F. G., . . . . .	Kearney.
HASTINGS, W. G., . . . . .	Wilbur.
HATFIELD, I. H., . . . . .	Lincoln.
HORTON, RICHARD S., . . . . .	Omaha.
KRETSINGER, E. O., . . . . .	Beatrice.
LANGDON, MARTIN, . . . . .	Omaha.
LETTON, CHARLES B., . . . . .	Fairbury.
McCANDLESS, A. D., . . . . .	Wymore.
OGDEN, CHARLES, . . . . .	Omaha.
O'NEILL, HARRY E., . . . . .	Omaha.
PATRICK, WILLIAM R., . . . . .	Papillion.
POUND, ROSCOE, . . . . .	Lincoln.
PROUT, F. N., . . . . .	Lincoln.
RAPER, JOHN B., . . . . .	Pawnee City.
REESE, MANOAH B., . . . . .	Lincoln.
RICKETTS, ARNOT C., . . . . .	Lincoln.
ROBBINS, C. A., . . . . .	Lincoln.
SMYTH, CONSTANTINE J., . . . . .	Omaha.
STUBBS, G. W., . . . . .	Superior.
WAKELEY, ARTHUR C., . . . . .	Omaha.
WEST, JOEL W., . . . . .	Omaha.
WOODS, FRANK H., . . . . .	Lincoln.
WOOLLEY, JAMES H., . . . . .	Grand Island.

## NEW JERSEY.

HUTCHINSON, BARTON B., . . . . . Trenton.  
 STRONG, ALAN H., . . . . . New Brunswick.

## NEW MEXICO,

CATRON, THOMAS B., . . . . . Santa Fe.

## NEW YORK.

DENISON, HOWARD P., . . . . . Syracuse.  
 MOSES, RAPHAEL J., . . . . . New York.

## NORTH DAKOTA.

AUSTIN, JAMES M., . . . . . Ellendale.

## OHIO.

GEDDES, FREDERICK L., . . . . . Toledo.  
 HUNT, CHARLES J., . . . . . Cincinnati.

## OKLAHOMA TERRITORY.

HAINER, BAYARD T., . . . . . Perry.

## OREGON.

BEAN, R. S., . . . . . Salem.  
 MOORE, F. A., . . . . . Salem.

## PENNSYLVANIA.

GIVEN, WILLIAM B., . . . . . Columbia.  
 LANDIS, CHARLES J., . . . . . Lancaster.  
 NILES, HENRY C., . . . . . York.  
 STEELE, HENRY J., . . . . . Easton.  
 VON MOSCHZINKER, ROBERT, . . . . . Philadelphia.  
 WATTERSON, A. V. D., . . . . . Pittsburg.

## TENNESSEE.

HEISKELL, F. H., . . . . . Memphis.  
 LINDSEY, H. B., . . . . . Knoxville.  
 REGERS, JESSE L., . . . . . Knoxville.  
 ROSEBROUGH, W. S., . . . . . Memphis.

## TEXAS.

ALEXANDER, L. C., . . . . . Waco.  
 AUTRY, JAMES L., . . . . . Corsicana.  
 BURGESS, WILLIAM H., . . . . . El Paso.

## TEXAS—Continued.

CARLOCK, R. L., . . . . .	Fort Worth.
DUFF, R. C., . . . . .	Beaumont.
EDWARDS, PEYTON F., . . . . .	El Paso.
GOULD, GEORGE H., . . . . .	Palestine.
KEMP, WYNDHAM, . . . . .	El Paso.
PARKER, JOHN W., . . . . .	Taylor.
SPOONTS, M. A., . . . . .	Fort Worth.
WALTHALL, A. M., . . . . .	El Paso.

## UTAH.

CRITCHLOW, EDWARD B., . . . . .	Salt Lake City.
KINNEY, CLEASON S., . . . . .	Salt Lake City.
VARIAN, CHARLES S., . . . . .	Salt Lake City.

## VIRGINIA.

BYRON, GEORGE, . . . . .	Richmond.
GRINNAN, DANIEL, . . . . .	Richmond.
MINOR, RALEIGH COLSTON, . . . . .	Charlottesville.
McINTOSH, J. R., . . . . .	Richmond.
TOWNES, WILLIAM A., . . . . .	Richmond.

## WEST VIRGINIA.

PRICE, GEORGE E., . . . . .	Charleston.
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## WISCONSIN.

BRUCE, ANDREW A., . . . . .	Madison.
SMITH, HOWARD L., . . . . .	Madison.

## WYOMING.

ARNOLD, CONSTANTINE P., . . . . .	Laramie.
CLARK, GIBSON, . . . . .	Cheyenne.
VAN ORSDEL, JOSIAH A., . . . . .	Cheyenne.

\*Elected by Executive Committee after meeting.

Number elected at Meeting, 225.

ELECTED BY EXECUTIVE COMMITTEE BETWEEN MEETINGS  
1900-1901.

## COLORADO.

BLAIR, JESSE H., . . . . .	Denver.
CARPENTER, SAMUEL L., . . . . .	Denver.
CUTHBERT, LUCIUS M., . . . . .	Denver.
DAVIS, HARRY C., . . . . .	Denver.
EWING, JOHN A., . . . . .	Leadville.
GOVE, FRANK E., . . . . .	Denver.
GUNNELL, A. T., . . . . .	Colorado Springs.
HAGGOTT, W. A., . . . . .	Idaho Springs.
HARDCASTLE, THOMAS H., . . . . .	Denver.
HOYT, LUCIUS W., . . . . .	Denver.
RIDDLE, HARVEY, . . . . .	Denver.
STARKWEATHER, JAMES C., . . . . .	Denver.
TALBOTT, RALPH, . . . . .	Denver.
VOORHEES, J. H., . . . . .	Pueblo.
WHITELEY, RICHARD H., . . . . .	Boulder.

## DISTRICT OF COLUMBIA.

HARLAN, JOHN MARSHALL, . . . . .	Washington.
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## ILLINOIS.

BOND, LESTER L., . . . . .	Chicago.
LAWSON, WILLIAM C., . . . . .	Chicago.

## KENTUCKY.

ELLIS, W. T., . . . . .	Owensboro.
HUGHES, D. H., . . . . .	Morganfield.

## LOUISIANA.

CAFFERY, DONELSON, . . . . .	Franklin.
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## MARYLAND.

HOWARD, CHARLES MORRIS, . . . . .	Baltimore.
WILLIAMS, HENRY W., . . . . .	Baltimore.

## MASSACHUSETTS.

STONE, FREDERIC M., . . . . .	Boston.
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## MINNESOTA.

MERCER, HUGH V., . . . . .	Minneapolis.
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## MISSOURI. .

CLARKE, ENOS, . . . . . St. Louis.

## NEBRASKA.

IRVINE, FRANK, . . . . . Lincoln.

REAVIS, C. F., . . . . . Falls City.

## NEW JERSEY.

WEART, SPENCER, . . . . . Jersey City.

## NEW YORK.

DIKE, NORMAN S., . . . . . New York.

SUMNER, EDWARD A., . . . . . New York.

VAN SLYCK, GEORGE F., . . . . . New York.

## PENNSYLVANIA.

BECK, JAMES M., . . . . . Philadelphia.

STERETT, JAMES R., . . . . . Pittsburg.

## WYOMING.

BURDICK, CHARLES W., . . . . . Cheyenne.

Number elected by Executive Committee, 35.



## RECAPITULATION.

Alaska Territory, . . . . .	3	Nebraska, . . . . .	33
Arkansas, . . . . .	6	New Jersey, . . . . .	3
California, . . . . .	2	New Mexico, . . . . .	1
Colorado, . . . . .	95	New York, . . . . .	5
District of Columbia, . . . . .	1	North Dakota, . . . . .	1
Georgia, . . . . .	1	Ohio, . . . . .	2
Illinois, . . . . .	9	Oklahoma Territory, . . . . .	1
Indian Territory, . . . . .	1	Oregon, . . . . .	2
Indiana, . . . . .	7	Pennsylvania, . . . . .	8
Iowa, . . . . .	12	Tennessee, . . . . .	4
Kansas, . . . . .	9	Texas, . . . . .	11
Kentucky, . . . . .	4	Utah, . . . . .	3
Louisiana, . . . . .	1	Virginia, . . . . .	5
Maryland, . . . . .	3	West Virginia, . . . . .	1
Massachusetts, . . . . .	1	Wisconsin, . . . . .	2
Michigan, . . . . .	2	Wyoming, . . . . .	4
Minnesota, . . . . .	7		
Missouri, . . . . .	10	Total, . . . . .	260

## MEMORANDUM.

The Annual Dinner was given on Friday, August 23d, at the Brown Palace Hotel. W. U. Hensel, of Pennsylvania, presided. Three hundred and one members and delegates were present.

An excursion through the mountains was given to the members of the Association and delegates and the ladies of their families, by the Colorado Bar Association, the Denver Bar Association and the Colorado members of the American Bar Association. The train, consisting of twelve Pullman cars, left Denver on Saturday morning, August 24th, and returned on Tuesday evening, August 27th.

### COMMITTEE ON ENTERTAINMENT AND ARRANGEMENT.

#### *Chairman.*

ARCHIE M. STEVENSON.

#### *Secretary.*

CHARLES M. CAMPBELL.

#### *Colorado Members of the American Bar Association.*

ARCHIE M. STEVENSON,  
CHARLES E. GAST,  
PLATT ROGERS,  
CHARLES CAVENDER,  
HORACE G. LUNT,

HENRY T. ROGERS,  
NELLIS E. CORTHELL,  
CHARLES J. HUGHES, JR.,  
CHARLES M. CAMPBELL,  
HENRY F. MAY.

#### *Colorado Bar Association.*

PLATT ROGERS, *President*,  
A. T. GUNNELL,  
J. H. VOORHEES,  
JOHN A. EWING,

EDWARD C. STIMSON,  
RICHARD H. WHITELY,  
JOSEPH H. MAUPIN,  
LUCIUS M. CUTHBERT.

#### *Denver Bar Association.*

HUGH BUTLER, *President*,  
RALPH TALBOT,  
THOMAS J. O'DONNELL,  
WILLIAM H. BRYANT,

CASS E. HERRINGTON,  
CHARLES D. HAYT,  
GUSTAVE C. BARTELS,  
TYSON S. DINEN.

## THE ITINERARY.

## SATURDAY, AUGUST 24TH.

Leave Denver, via Colorado & Southern Railway, . . . . .	9 30 a. m.
Arrive Colorado Springs, . . . . .	12.00 noon.
Leave Colorado Springs, via Colorado Midland Railway, . .	2.30 p. m.
Arrive Cripple Creek, via Midland Terminal Railway, . . .	6.00 p. m.

## SUNDAY, AUGUST 25TH.

Leave Cripple Creek, via Midland Terminal Railway, . . . .	12.30 a. m.
Arrive Buena Vista, via Colorado Midland Railway, . . . .	5.15 a. m.
Arrive Leadville, via Colorado Midland Railway, . . . . .	7.00 a. m.
Leave Leadville, via Colorado Midland Railway, . . . . .	8.30 a. m.
Arrive Ivanhoe, via Colorado Midland Railway, . . . . .	9.40 a. m.
Arrive Glenwood, via Colorado Midland Railway, . . . . .	1.00 p. m.

## MONDAY, AUGUST 26TH.

Leave Glenwood, via Denver & Rio Grande Railroad, . . . .	8.00 a. m.
Leave Minturn, . . . . .	10.03 a. m.
Leave Tennessee Pass, . . . . .	11.07 a. m.
Leave Malta, . . . . .	11.21 a. m.
Leave Buena Vista, . . . . .	12.16 p. m.
Arrive Salida, . . . . .	1.00 p. m.
Leave Salida, via Denver & Rio Grande Railroad, . . . . .	2.30 p. m.
Leave Poncha, . . . . .	2.42 p. m.
Arrive Marshall Pass, . . . . .	4.10 p. m.
Leave Marshall Pass, . . . . .	4.40 p. m.
Leave Poncha, . . . . .	5.03 p. m.
Arrive Salida, . . . . .	6.15 p. m.

## TUESDAY, AUGUST 27TH.

Leave Salida, via Denver & Rio Grande Railroad, . . . . .	8.00 a. m.
Leave Parkdale, . . . . .	8.42 a. m.
Arrive Canon City, . . . . .	9.55 a. m.
Arrive Florence, . . . . .	10.10 a. m.
Arrive Pueblo, . . . . .	11.05 a. m.
Leave Pueblo, via Denver & Rio Grande Railroad, . . . . .	11.20 a. m.
Arrive Colorado Springs, . . . . .	12.30 p. m.
Leave Colorado Springs for Denver on the evening of Tuesday, August 27th.	

At the Royal Gorge a meeting was held, at which Charles E. Littlefield, of Maine, presided, and the following minute was adopted :

*To the Colorado Bar Association*

*and the Denver Bar Association :*

The members and delegates present at the Twenty-fourth Annual Meeting of the American Bar Association, who, with their families, have enjoyed your unbounded hospitality, cannot leave your state without some expression of the appreciation in which they hold your courtesy—cordial, unvarying and resourceful as it has been.

In the Canon of the Arkansas, therefore, by the Royal Gorge, with one accord and moved by a common desire, we record the delight with which we have enjoyed the trip, for four days, over the mountains and through the valleys of Colorado, made possible by your unequalled hospitality and attended by a regard for our comfort and provision for our pleasure, as unrivaled in its extent as it has been agreeable in the manner of its delightful and continued operation.

The grandeur of Colorado's mountains, the magnificence of her canons, the beauty of her fertile valleys, the unlimited richness with which God has endowed her in material wealth, we shall never forget ; but with it all, and above it all, the friendships we have made with your people and the courtesies we have received at your hands will abide with us always, a constant source of delightful recollection and a most brilliant event in the history of our Association.

## LIST OF PRESIDENTS.

1. 1878-79-\*JAMES O. BROADHEAD,<sup>1</sup> . . . St. Louis, Missouri.
2. 1879-80-\*BENJAMIN H. BRISTOW, . . . New York, New York.
3. 1880-81-\*EDWARD J. PHELPS, . . . Burlington, Vermont.
4. 1881-82-\*CLARKSON N. POTTER,<sup>2</sup> . . . New York, New York.
5. 1882-83-\*ALEXANDER R. LAWTON, . . Savannah, Georgia.
6. 1883-84-CORTLANDT PARKER, . . . Newark, New Jersey.
7. 1884-85-\*JOHN W. STEVENSON, . . . Covington, Kentucky.
8. 1885-86-WILLIAM ALLEN BUTLER, . . New York, New York.
9. 1886-87-\*THOMAS J. SENMES, . . . New Orleans, Louisiana.
10. 1887-88-\*GEORGE G. WRIGHT, . . . Des Moines, Iowa.
11. 1888-89-\*DAVID DUDLEY FIELD, . . New York, New York.
12. 1889-90-HENRY HITCHCOCK, . . . St. Louis, Missouri.
13. 1890-91-SIMSEON E. BALDWIN, . . . New Haven, Connecticut.
14. 1891-92-JOHN F. DILLON, . . . New York, New York.
15. 1892-93-\*J. RANDOLPH TUCKER, . . Lexington, Virginia.
16. 1893-94-\*THOMAS M. COOLEY,<sup>3</sup> . . . Ann Arbor, Michigan.
17. 1894-95-JAMES C. CARTER, . . . New York, New York.
18. 1895-96-MOORFIELD STOREY, . . . Boston, Massachusetts.
19. 1896-97-JAMES M. WOOLWORTH, . . Omaha, Nebraska.
20. 1897-98-WILLIAM WIRT HOWE, . . . New Orleans, Louisiana.
21. 1898-99-JOSEPH H. CHOATE,<sup>4</sup> . . . New York, New York.
22. 1899-1900-CHARLES F. MANDERSON, . Omaha, Nebraska.
23. 1900-1901-EDMUND WETMORE, . . . New York, New York.
24. 1901-1902-U. M. ROSE, . . . Little Rock, Arkansas.

\* Deceased.

<sup>1</sup> At the Conference for organizing the Association in 1878, John H. B. Latrobe, of Maryland, was elected Temporary Chairman, and when the organization was completed, Benjamin H. Bristow, of Kentucky, was elected President of the Conference.

<sup>2</sup> In consequence of the death of Clarkson N. Potter, Francis Kernan, of New York, presided and prepared and delivered the President's Address in 1882.

<sup>3</sup> In consequence of the illness of Thomas M. Cooley, Samuel F. Hunt, of Ohio, presided and read the President's Address prepared by Judge Cooley in 1894.

<sup>4</sup> In consequence of the absence of Joseph H. Choate, as Ambassador to Great Britain, Charles F. Manderson, of Nebraska, presided and prepared and delivered the President's Address in 1899.

## LIST OF SECRETARIES.

1. 1878-93-\*EDWARD OTIS HINKLEY,<sup>1</sup> . . . Baltimore, Maryland.
2. 1893- JOHN HINKLEY,<sup>2</sup> . . . . . Baltimore, Maryland.

## LIST OF TREASURERS.

1. 1878- FRANCIS RAWLE, . . . . . Philadelphia, Penna.

## LIST OF EXECUTIVE COMMITTEE.

1. 1878-87-\*LUKE P. POLAND, . . . . . St. Johnsbury, Vermont.
2. 1878-88-SIMEON E. BALDWIN,<sup>3</sup> . . . . . New Haven, Connecticut.
3. 1878-80-WILLIAM A. FISHER, . . . . . Baltimore, Maryland.
4. 1880-85-WILLIAM ALLEN BUTLER, . . . New York, New York.
5. 1885-90-CHARLES C. BONNEY,<sup>4</sup> . . . . . Chicago, Illinois.
6. 1887-96-GEORGE A. MERCER, . . . . . Savannah, Georgia.
7. 1888-90-\*JOHN RANDOLPH TUCKER, . . . Lexington, Kentucky.
8. 1890-91-\*WILLIAM P. WELLS, . . . . . Detroit, Michigan.
9. 1890-99-ALFRED HEMENWAY, . . . . . Boston, Massachusetts.
10. 1891-95-\*BRADLEY G. SCHLEY, . . . . . Milwaukee, Wisconsin.
11. 1895-99-CHARLES CLAFLIN ALLEN, . . . St. Louis, Missouri.
12. 1896-97-WILLIAM WIRT HOWE, . . . . . New Orleans, Louisiana.
13. 1897-1900-CHARLES NOBLE GREGORY, . . Madison, Wisconsin.
14. 1899-1900-EDMUND WETMORE, . . . . . New York, New York.
15. 1899-1901-U. M. ROSE, . . . . . Little Rock, Arkansas.
16. 1899- WILLIAM A. KETCHAM, . . . . . Indianapolis, Indiana.
17. 1899- HENRY ST. GEORGE TUCKER, . . Lexington, Virginia.
18. 1900- RODNEY A. MERCUR, . . . . . Towanda, Pennsylvania.
19. 1900- CHARLES F. LIBBY, . . . . . Portland, Maine.
20. 1901- JAMES HAGERMAN, . . . . . St. Louis, Missouri.

\* Deceased.

<sup>1</sup> In 1878, Francis Rawle, of Pennsylvania, and Isaac Grant Thompson, of New York, acted as temporary Secretaries and as Secretaries of the Conference.

In 1886, Edward Otis Hinkley being absent, Walter George Smith, of Pennsylvania, acted as Secretary *pro tempore*.

<sup>3</sup> In 1898, John Hinkley being absent, George P. Wanty, of Michigan, acted as Secretary *pro tempore*.

<sup>4</sup> In 1888, at the first meeting of the Executive Committee after the adjournment of the Association, Simeon E. Baldwin resigned, and Charles C. Bonney was chosen to fill the vacancy under By-Law X.

# CONSTITUTION.

## NAME AND OBJECT.

ARTICLE I.—This Association shall be known as “THE AMERICAN BAR ASSOCIATION.” Its object shall be to advance the science of jurisprudence, promote the administration of justice and uniformity of legislation throughout the Union, uphold the honor of the profession of the law, and encourage cordial intercourse among the members of the American Bar.

## QUALIFICATIONS FOR MEMBERSHIP.

ARTICLE II.—Any person shall be eligible to membership in this Association who shall be, and shall, for five years next preceding, have been a member in good standing of the Bar of any State, and who shall also be nominated as hereinafter provided.

## OFFICERS AND COMMITTEES.

ARTICLE III.—The following officers shall be elected at each Annual Meeting for the year ensuing: A President (the same person shall not be elected President two years in succession); one Vice-President from each State; a Secretary; a Treasurer; a Council, consisting of one member from each State (the Council shall be a standing committee on nominations for office); an Executive Committee, which shall consist of the President, the last ex-President, the Secretary, and the Treasurer, all of whom shall be *ex officio* members, together with five other members, to be chosen by the Association, but no member shall be eligible to such choice more than three years in succession; and the President, and in his absence the ex-President, shall be the Chairman of the committee.\*

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\*Amended August 19, 1898, and August 30, 1899.

The following committees shall be annually appointed by the President for the year ensuing, and shall consist of five members each :

- On Jurisprudence and Law Reform ;
- On Judicial Administration and Remedial Procedure ;
- On Legal Education and Admissions to the Bar ;
- On Commercial Law ;
- On International Law ;
- On Publications ;
- On Grievances ;
- \*On Law Reporting and Digesting ;
- †On Patent, Trade-Mark and Copyright Law.

A majority of those members of any committee, including the Council, who may be present at any meeting of the Association, shall constitute a quorum of such committee for the purpose of such meeting.

The Vice-President for each State, and not less than two other members from such State, to be annually elected, shall constitute a Local Council for such State, to which shall be referred all applications for membership from such State. The Vice-President shall be, *ex officio*, Chairman of such Council.

A committee of three, of whom the Secretary shall always be one, shall be appointed by the President at each Annual Meeting of the Association, whose duty it shall be to report to the next meeting the names of all members who shall, in the interval, have died, with such notices of them as shall, in the discretion of the committee, be proper.

It shall be the duty of the Vice-President from each State and Territory to report the deaths of members within the same to the said committee.

#### ELECTION OF MEMBERS.

ARTICLE IV.—All nominations for membership shall be made by the Local Council of the State to the Bar of which

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\*By amendment passed August 29, 1895.

†By amendment passed August 30, 1899.



the persons nominated belong. Such nominations must be transmitted in writing to the Chairman of the General Council, and approved by the Council, on vote by ballot.

The General Council may also nominate members from States having no Local Council, and at the Annual Meeting of the Association, in the absence of all members of the Local Council of any State; *Provided*, That no nomination shall be considered by the General Council, unless accompanied by a statement in writing by at least three members of the Association from the same State with the person nominated, or, in their absence, by members from a neighboring State or States, to the effect that the person nominated has the qualifications required by the Constitution and desires to become a member of the Association, and recommending his admission as a member.

All nominations thus made or approved shall be reported by the Council to the Association, and all whose names are reported shall thereupon become members of the Association; *Provided*, That if any member demand a vote upon any name thus reported, the Association shall thereupon vote thereon by ballot.

Several nominees, if from the same State, may be voted for upon the same ballot; and in such case placing the word "No" against any name or names upon the ticket shall be deemed a negative vote against such name or names, and against those only. Five negative votes shall suffice to defeat an election.

During the period between the Annual Meetings, members may be elected by the Executive Committee upon the written nomination of a majority of the Vice-President and members of the Local Council of any State.

ARTICLE V.—All members of the Conference adopting the Constitution, and all persons elected by them upon the recommendation of the committee of five appointed by such Conference, shall become members of the Association upon payment of the annual dues for the current year herein provided for.

## BY-LAWS.

ARTICLE VI.—By-Laws may be adopted at any Annual Meeting of the Association by a majority of the members present. It shall be the duty of the Executive Committee, without delay, to adopt suitable By-Laws, which shall be in force until rescinded by the Association.

## DUES.

ARTICLE VII.—Each member shall pay five dollars to the Treasurer as annual dues, and no person shall be qualified to exercise any privilege of membership who is in default. Such dues shall be payable, and the payment thereof enforced, as may be provided by the By-Laws. Members shall be entitled to receive all publications of the Association free of charge.

## ANNUAL ADDRESS.

ARTICLE VIII.—The President shall open each Annual Meeting of the Association with an address, in which he shall communicate the most noteworthy changes in statute law on points of general interest made in the several States and by Congress during the preceding year. It shall be the duty of the member of the General Council from each State to report to the President, on or before the first day of May, annually, any such legislation in his State.

## ANNUAL MEETINGS.

ARTICLE IX.—This Association shall meet annually, at such time and place as the Executive Committee may select, and those present at such meeting shall constitute a quorum.

## AMENDMENTS.

ARTICLE X.—This Constitution may be altered or amended by a vote of three-fourths of the members present at any

Annual Meeting, but no such change shall be made at any meeting at which less than thirty members are present.

## CONSTRUCTION.

ARTICLE XI.—The word “*State*,” whenever used in this Constitution, shall be deemed to be equivalent to *State, Territory*, and the *District of Columbia*.

## BY-LAWS.

### MEETING OF THE ASSOCIATION.

I.—The Executive Committee, at its first meeting after each Annual Meeting, shall select some person to make an address at the next Annual Meeting, and not exceeding six members of the Association to read papers.

II.—The order of exercises at the Annual Meeting shall be as follows :

- (a) Opening Address of the President.
- (b) Nominations and Election of Members.
- (c) Election of the General Council.
- (d) Reports of Secretary and Treasurer.
- (e) Report of Executive Committee.
- (f) Reports of Standing Committees :
  - On Jurisprudence and Law Reform ;
  - On Judicial Administration and Remedial Procedure;
  - On Legal Education and Admissions to the Bar ;
  - On Commercial Law ;
  - On International Law ;
  - On Publications ;
  - On Grievances ;
  - On Law Reporting and Digesting.
- (g) Reports of Special Committees.
- (h) The Nomination of Officers.
- (i) Miscellaneous Business.
- (j) The Election of Officers.

The address, to be delivered by a person invited by the Executive Committee, shall be made at the morning session of the second day of the Annual Meeting.

The reading and delivering of essays and papers shall be on the same day, or at such other time as the Executive Committee may determine.

III.—No person shall speak more than ten minutes at a time or more than twice on one subject.

A stenographer shall be employed at each Annual Meeting.

IV.—Each State Bar Association may annually appoint delegates, not exceeding three in number, to the next meeting of the Association. In States where no State Bar Association exists, any City or County Bar Association may appoint such delegates, not exceeding two in number. Such delegates shall be entitled to all the privileges of membership at and during the said meeting.

V.—At any of the meetings of the Association, members of the Bar of any foreign country or of any State who are not members of the Association may be admitted to the privileges of the floor during such meeting.

VI.—All papers read before the Association shall be lodged with the Secretary. The Annual Address of the President, the reports of committees, and all proceedings at the Annual Meeting shall be printed; but no other address made or paper read or presented shall be printed, except by order of the Committee on Publications.

Extra copies of reports, addresses, and papers read before the Association may be printed by the Committee on Publications for the use of their authors, not exceeding two hundred copies for each of such authors.

The Secretary and the Chairman of the Executive Committee shall endeavor to arrange with the Smithsonian Institution, or otherwise, a system of exchanges by which the *Transactions*

can be annually exchanged with those of other associations in foreign countries interested in jurisprudence or governmental affairs; and the Secretary shall exchange the *Transactions* with those of the State and Local Bar Associations; and all books thus acquired shall be bound and deposited in the charge of the New York City Bar Association, subject to the call of this Association, if it ever desires to withdraw or consult them, if the former Association agrees to such deposit.

The Secretary shall send one copy of the Report of the proceedings of this Association to the President of the United States, and to each of the Judges of the Supreme Court thereof, and to the Library of the State Department, and of the Department of Justice thereof, and to the Library of Congress, and the Library of the Supreme Court thereof, and to the Governor, and to the Chief Judge of the court of last resort of each State, and to the State Librarian thereof, and to all public law libraries, and other principal public and college libraries in the United States, and to such other persons or bodies as the Executive Committee may direct.

No resolution complimentary to an officer or member for any service performed, paper read, or address delivered shall be considered by the Association.

#### OFFICERS AND COMMITTEES.

VII.—The terms of office of all officers elected at any Annual Meeting shall commence at the adjournment of such meeting, except the Council, whose term of office shall commence immediately upon their election.

VIII.—The President shall appoint all committees, except the Committee on Publications, within thirty days after the Annual Meeting, and shall announce them to the Secretary, and the Secretary shall promptly give notice to the persons appointed. The Committee on Publications shall be appointed on the first day of each meeting.

IX.—The Treasurer's Report shall be examined and audited annually, before its presentation to the Association, by two members to be appointed by the Chairman of the Executive Committee.

X.—The Council and all standing committees shall meet on the day preceding each Annual Meeting, at the place where the same is to be held, at such hour as their respective Chairmen shall appoint. If at any Annual Meeting of the Association any member of any committee shall be absent, the vacancy may be filled by the members of the committee present.

The Secretary of the Association shall be the Secretary of the Council.

XI.—The Committee on Publications shall also meet within one month after each Annual Meeting, at such time and place as the Chairman shall appoint.

XII.—Special meetings of any committee shall be held at such times and places as the Chairman thereof may appoint. Reasonable notice shall be given by him to each member by mail.

The traveling and other necessary expenses incurred by any committee, standing or special, for meetings of such committee, during the interval between the Annual Meetings of the Association, shall be paid by the Treasurer, on the approval and by the order of the Executive Committee, out of such appropriation, as to the Executive Committee may seem necessary in each case, on previous application in advance of its expenditure.

All committees may have their reports printed by the Secretary before the Annual Meeting of the Association; and any such report, containing any recommendation for action on the part of the Association, shall be printed and shall be distributed by mail by the Secretary to all the members of the Association

at least fifteen days before the Annual Meeting at which such report is proposed to be submitted.\*

It shall be the duty of each Vice-President and member of the General Council of this Association to endeavor to procure the enactment by the legislature of their State of each and every law recommended by the Association, and the Secretary shall furnish them with copies of each and every recommendation and draft of bill, when there shall be such draft; and whenever this Association shall by resolution recommend the enactment of any law or laws, the Secretary shall, as soon as possible, furnish a copy of the resolution to the President of each State Bar Association, with the request of this Association that such State Bar Association shall co-operate with the local Vice-President and member of the General Council of this Association in having a bill introduced in the legislature of its State containing the subject-matter recommended by such resolution, and use proper means to procure the enactment of the same into law. In every State where there is no State Bar Association, a copy of such resolution with a similar request, shall be sent to the President of the Bar Association of the principal city in such State; and in every instance where the form of bill has been recommended with the resolution, a copy of such form of bill shall also be sent with the resolution.

#### ANNUAL DUES.

XIII.—The Annual Dues shall be payable at the Annual Meeting in advance. If any member neglects to pay them for any year at or before the next Annual Meeting, he shall cease to be a member. The Treasurer shall give notice of this By-Law, within sixty days after each meeting, to all members in default.

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\* The following resolution was adopted on August 30, 1889:

"*Resolved*, That any standing or special committee hereafter reporting necessary legislation, shall prepare a bill embodying their views, for the approval of the Association."



A member who has been dropped from the roll for non-payment of dues may be restored to membership by the Executive Committee upon the payment of all back dues. *Provided*, such restoration shall be recommended by a member of the Local Council of his State, or in their absence, at an Annual Meeting, by any two members of the Association.

XIV.—A Section of the Association, to be known as the Section of Legal Education, is hereby established, which shall meet annually in connection with the Meeting of the Association, but not during such hours as the Association is in session.

Its object shall be the discussion of methods of Legal Education, and it may make recommendations to the Association, which shall be referred by the Association to the Committee on Legal Education.

The proceedings of the Section may be published from time to time, at the discretion of the Executive Committee, and on the recommendation of the Committee on Publications.

All members of the Association, who desire, may enroll themselves as members of the Section, and persons not eligible for membership in the Association, but who are engaged in teaching law, may be admitted to the privilege of the floor at any meeting of the Section, by vote of the Section.

The Section shall be organized by the appointment of a Chairman and Secretary, at its first session; and a Chairman and Secretary shall thereafter be elected annually by the Section.

A Section of the Association, to be known as the Section of Patent, Trade-Mark\* and Copyright Law, is hereby established, which shall meet annually in connection with the meeting of the Association, but not during such hours as the Association is in session.

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\* As amended, 1899.

Its object shall be to discuss the subject of the law and practice relating to patents, trade-marks and copyrights. It may report to the Association ; and matters relating to patents, trade-marks and copyrights may be referred to it.

The proceedings of the Section may be published from time to time, at the discretion of the Executive Committee, and on the recommendation of the Committee on Publications.

All members of the Association, who desire, may enroll themselves as members of the Section.

The Section shall be organized by the appointment of a Chairman and Secretary by the Section, and a Chairman and Secretary shall be thereafter annually elected by the Section for the year commencing upon the final adjournment of its meeting.

## OFFICERS.

1901-1902.

PRESIDENT,

U. M. ROSE,

*Little Rock, Arkansas.*

SECRETARY,

JOHN HINKLEY,

*#15, North Charles Street, Baltimore, Maryland.*

TREASURER,

FRANCIS RAWLE,

*328, Chestnut Street, Philadelphia, Pennsylvania.*

EXECUTIVE COMMITTEE.

*EX OFFICIO.*

U. M. ROSE, PRESIDENT.

EDMUND WETMORE, LAST PRESIDENT.

JOHN HINKLEY, SECRETARY.

FRANCIS RAWLE, TREASURER.

*ELECTED MEMBERS.*

WILLIAM A. KETCHAM, *Indianapolis, Indiana.*

HENRY ST. GEORGE TUCKER, *Lexington, Virginia.*

CHARLES F. LIBBY, *Portland, Maine.*

BODNEY A. MERCUR, *Towanda, Pennsylvania.*

JAMES HAGERMAN, *St. Louis, Missouri.*

## GENERAL COUNCIL.

STATE.	NAME.	RESIDENCE.
ALABAMA, . . . . .	JOSEPH J. WILLETT, . . . .	Anniston.
ALASKA TERRITORY, .	MELVILLE C. BROWN, . . .	Juneau.
ARIZONA TERRITORY, .	EVERETT E. ELLINWOOD, . .	Flagstaff.
ARKANSAS, . . . . .	JOHN FLETCHER, . . . . .	Little Rock.
CALIFORNIA, . . . . .	DAVID L. WITHINGTON, . .	San Diego.
COLORADO, . . . . .	LUCIUS W. HOYT, . . . . .	Denver.
CONNECTICUT, . . . .	LYMAN D. BREWSTER, . . .	Danbury.
DELAWARE, . . . . .	ANTHONY HIGGINS, . . . .	Wilmington.
DISTRICT OF COLUMBIA,	HENRY E. DAVIS, . . . . .	Washington.
FLORIDA, . . . . .	R. W. WILLIAMS, . . . . .	Tallahassee.
GEORGIA, . . . . .	P. W. MELDRIM, . . . . .	Savannah.
IDAHO, . . . . .	WILLIAM W. WOODS, . . . .	Wallace.
ILLINOIS, . . . . .	LESTER L. BOND, . . . . .	Chicago.
INDIAN TERRITORY, .	C. L. JACKSON, . . . . .	Muscogee.
INDIANA, . . . . .	WILLIAM P. BREEN, . . . .	Fort Wayne.
IOWA, . . . . .	C. C. COLE, . . . . .	Des Moines.
KANSAS, . . . . .	JOHN D. MILLIKEN, . . . .	McPherson.
KENTUCKY, . . . . .	EDMUND F. TRABUE, . . . .	Louisville.
LOUISIANA, . . . . .	WILLIAM WIET HOWE, . . .	New Orleans.
MAINE, . . . . .	CHARLES F. LIBBY, . . . .	Portland.
MARYLAND, . . . . .	STEVENSON A. WILLIAMS, . .	Bel Air.
MASSACHUSETTS, . . .	SAMUEL C. BENNETT, . . . .	Boston.
MICHIGAN, . . . . .	DAN H. BALL, . . . . .	Marquette.
MINNESOTA, . . . . .	HIRAM F. STEVENS, (C'n), .	St. Paul.
MISSISSIPPI, . . . . .	R. H. THOMPSON, . . . . .	Jackson.
MISSOURI, . . . . .	JAMES HAGERMAN, . . . . .	St. Louis.
MONTANA, . . . . .	W. F. SANDERS, . . . . .	Helena.
NEBRASKA, . . . . .	C. S. MONTGOMERY, . . . .	Omaha.
NEW HAMPSHIRE, . . .	JOSEPH W. FELLOWS, . . . .	Manchester.
NEW JERSEY, . . . . .	JAMES J. BERGEN, . . . . .	Somerville.
NEW MEXICO, . . . . .	THOMAS B. CATRON, . . . .	Santa Fé.

STATE	NAME.	RESIDENCE.
NEW YORK, . . . .	J. NEWTON FIERO, . . . .	Albany.
NORTH CAROLINA, . .	J. CRAWFORD BIGGS, . . . .	Durham.
NORTH DAKOTA, . . .	BURLEIGH F. SPALDING, . .	Fargo.
OHIO, . . . . .	(Vacant.)	
OKLAHOMA TER., . .	HENRY E. ASP, . . . . .	Guthrie.
OREGON, . . . . .	CHARLES H. CAREY, . . . .	Portland.
PENNSYLVANIA, . . .	SIMON P. WOLVERTON, . . .	Sunbury.
RHODE ISLAND, . . .	AMASA M. EATON, . . . . .	Providence.
SOUTH CAROLINA, . .	CHARLES A. WOODS, . . . .	Marion.
SOUTH DAKOTA, . . .	CHARLES O. BAILEY, . . . .	Sioux Falls.
TENNESSEE, . . . . .	E. C. CAMP, . . . . .	Knoxville.
TEXAS, . . . . .	F. C. DILLARD, . . . . .	Sherman.
UTAH, . . . . .	CHARLES S. VARIAN, . . . .	Salt Lake City.
VERMONT, . . . . .	ELIHU B. TAFT, . . . . .	Burlington.
VIRGINIA, . . . . .	S. S. P. PATTESON, . . . .	Richmond.
WASHINGTON, . . . .	C. H. HANFORD, . . . . .	Seattle.
WEST VIRGINIA, . . .	W. W. VANWINKLE, . . . .	Parkersburg.
WISCONSIN, . . . . .	R. M. BASHFORD, . . . . .	Madison.
WYOMING, . . . . .	CHARLES N. POTTER, . . . .	Cheyenne.

# VICE-PRESIDENTS

AND

## MEMBERS OF LOCAL COUNCILS.

ELECTED 1901.

### ALASKA.

Vice-President, J. G. PRICE, . . . . . Skagway.  
Local Council, ROBERT JENNINGS, . . . . Skagway.  
W. J. HILLS, . . . . . Juneau.

### ALABAMA.

Vice-President, THOMAS N. McCLELLAN, . . Montgomery.  
Local Council, ALEXANDER TROY, . . . . Montgomery.  
GEORGE P. HARRISON, . . . Opelika.  
ALEXANDER T. LONDON, . . Birmingham.

### ARIZONA TERRITORY.

Vice-President, JOHN C. HERNDON, . . . . Prescott.  
Local Council, ROBERT E. MORRISON, . . . Prescott.  
WILLIAM H. BARNES, . . . . Tucson.  
ELISHA M. SANFORD, . . . Prescott.

### ARKANSAS.

Vice-President, JAMES F. READ, . . . . . Fort Smith.  
Local Council, THOMAS B. MARTIN, . . . . Little Rock.  
J. W. McLOUD, . . . . . Little Rock.  
M. M. COHN, . . . . . Little Rock.  
JOSEPH M. HILL, . . . . . Fort Smith.

### CALIFORNIA.

Vice-President, CHARLES MONROE, . . . . Los Angeles.  
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LYNN HELM, . . . . . Los Angeles.  
GEORGE E. OTIS, . . . . . San Bernardino.  
WALTER T. J. ROSE, . . . . Los Angeles.

## COLORADO.

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Local Council,	PLATT ROGERS, . . . . .	Denver.
	CHARLES J. HUGHES, JR., . . . . .	Denver.
	JOEL F. VAILE, . . . . .	Denver.
	HUGH BUTLER, . . . . .	Denver.
	CASS E. HERRINGTON, . . . . .	Denver.
	CHARLES M. CAMPBELL, . . . . .	Denver.

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Local Council,	LEWIS E. STANTON, . . . . .	Hartford.
	TALCOTT H. RUSSELL, . . . . .	New Haven.
	CHARLES E. SEARLES, . . . . .	Putnam.
	GEORGE D. WATROUS, . . . . .	New Haven.
	DONALD T. WARNER, . . . . .	Salisbury.
	EDWIN B. GAGER, . . . . .	Derby.

## DELAWARE.

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Local Council,	WILLARD SAULSBURY, . . . . .	Wilmington.
	JOHN P. NIELDS, . . . . .	Wilmington.

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Local Council,	CHAPIN BROWN, . . . . .	Washington.
	SAMUEL MADDOX, . . . . .	Washington.
	JAMES G. PAYNE, . . . . .	Washington.
	ALDIS B. BROWNE, . . . . .	Washington.
	J. NOTA MCGILL, . . . . .	Washington.
	WILLIAM A. MELOY, . . . . .	Washington.

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Local Council,	LOUIS C. MASSEY, . . . . .	Orlando.
	C. D. RINEHART, . . . . .	Jacksonville.
	BENJ. S. LIDDON, . . . . .	Marianna.
	WILLIAM A. BLOUNT, . . . . .	Pensacola.
	D. U. FLETCHER, . . . . .	Jacksonville.
	WILLIAM H. BAKER, . . . . .	Jacksonville.

## GEORGIA.

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Local Council,	LOUIS F. GARRARD, . . . . .	Columbus.
	JOHN W. AIKEN, . . . . .	Cartersville.
	JOSEPH H. MERRILL, . . . . .	Thomasville.

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 Local Council, ALEXANDER E. MAYHEW, . Wallace.

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 Local Council, E. B. SHERMAN, . . . . Chicago.  
                   EDWIN BURRITT SMITH, . . Chicago.  
                   JESSE HOLDOM, . . . . Chicago.  
                   SIGMUND ZEISLER, . . . . Chicago.  
                   GEORGE A. FOLLANSBEE, . Chicago.  
                   ROBERT H. PARKINSON, . . Chicago.  
                   GEORGE T. PAGE, . . . . Peoria.  
                   HENRY D. ESTABROOK, . . Chicago.

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 Local Council, WILLIAM L. TAYLOR, . . . Indianapolis.  
                   TRUMAN F. PALMER, . . . Monticello.  
                   GEORGE L. REINHARD, . . . Bloomington.  
                   JOHN MORRIS, JR., . . . . Fort Wayne.  
                   GEORGE E. CLARKE, . . . . South Bend.  
                   WILLIAM P. ROGERS, . . . . Bloomington.  
                   CHARLES C. SPENCER, . . . Monticello.  
                   THEODORE P. DAVIS, . . . Indianapolis.  
                   WILBERT WARD, . . . . South Bend.

## IOWA.

Vice-President, JAMES O. CROSBY, . . . . Garnavillo.  
 Local Council, JAMES H. McCONLOGUE, . . Mason City.  
                   J. C. LONGUEVILLE, . . . . Dubuque.  
                   A. E. SWISHER, . . . . Iowa City.  
                   ROBERT M. HAINES, . . . . Grinnell.

## KANSAS.

Vice-President, CHARLES BLOOD SMITH, . . Topeka.  
 Local Council, FRANK L. MARTIN, . . . . Hutchinson.  
                   PHILIP P. CAMPBELL, . . . Pittsburgh.



**KENTUCKY.**

Vice-President, STERLING B. TONEY, . . . Louisville.  
 Local Council, CHARLES S. GRUBBS, . . . Louisville.  
                   W. T. ELLIS, . . . Owensboro.  
                   WILLIAM M. BULLITT, . . . Louisville.

**LOUISIANA.**

Vice-President, ERNEST B. KRUTTSCHNITT, New Orleans.  
 Local Council, ERNEST T. FLORANCE, . . . New Orleans.  
                   THOS. J. KERNAN, . . . Baton Rouge.  
                   EDWIN T. MERRICK, . . . New Orleans.

**MAINE.**

Vice-President, LUCILLIUS A. EMERY, . . . Ellsworth.  
 Local Council, FRANK M. HIGGINS, . . . Limerick.  
                   HANNIBAL E. HAMLIN, . . . Ellsworth.  
                   FREDERICK A. POWERS, . . . Houlton.  
                   GEORGE E. BIRD, . . . Portland.  
                   WILLIAM B. SKELTON, . . . Lewiston.

**MARYLAND.**

Vice-President, SAMUEL D. SCHMUCKER, . . . Baltimore.  
 Local Council, THOMAS J. MORRIS, . . . Baltimore.  
                   JOHN P. BRISCOE, . . . Prince Frederick.  
                   ROBERT R. HENDERSON, . . . Cumberland.  
                   CONWAY W. SAMS, . . . Baltimore.  
                   RICHARD BERNARD, . . . Baltimore.  
                   THOMAS H. ROBINSON, . . . Bel Air.  
                   JOHN S. WIRT, . . . Elkton.  
                   CLAYTON PURNELL, . . . Frostburg.

**MASSACHUSETTS.**

Vice-President, M. F. DICKINSON, . . . Boston.  
 Local Council, ALFRED HEMENWAY, . . . Boston.  
                   HENRY S. DEWEY, . . . Boston.  
                   WILLIAM V. KELLEN, . . . Boston.  
                   JOSEPH HENRY BEALE, . . . Cambridge.

**MICHIGAN.**

Vice-President, GEORGE P. WANTY, . . . Grand Rapids.  
 Local Council, HENRY M. CAMPBELL, . . . Detroit.  
                   THOMAS L. CHADBOURNE, . . . Houghton.  
                   RUSSELL C. OSTRANDER, . . . Lansing.  
                   HARRY B. HUTCHINS, . . . Ann Arbor.

**MINNESOTA.**

Vice-President, FREDERICK V. BROWN, . . . Minneapolis.  
 Local Council, AMBROSE TIGHE, . . . . . St. Paul.  
                   CHARLES S. ALBERT, . . . . . Minneapolis.  
                   WILLIAM A. LANCASTER, . . . Minneapolis.

**MISSISSIPPI.**

Vice-President, CHARLES B. HOWRY, . . . . . Oxford.  
 Local Council, R. H. THOMPSON, . . . . . Jackson.

**MISSOURI.**

Vice-President, CHARLES CLAFLIN ALLEN, St. Louis.  
 Local Council, SELDEN P. SPENCER, . . . . . St. Louis.  
                   SANFORD B. LADD, . . . . . Kansas City.  
                   FRANK TITUS, . . . . . Kansas City.  
                   WILLIAM S. CURTIS, . . . . . St. Louis.  
                   WALTER B. DOUGLAS, . . . . . St. Louis.  
                   CLARENCE C. WARD, . . . . . St. Louis.  
                   ALEXANDER NEW, . . . . . Kansas City.  
                   FRANK P. SEBREE, . . . . . Kansas City.  
                   GEORGE ROBERTSON, . . . . . Mexico.  
                   WALTOUR M. ROBINSON, . . . Jefferson City.

**MONTANA.**

Vice-President, JOHN W. COTTER, . . . . . Butte.  
 Local Council, WILLIAM SCALLON, . . . . . Butte.

**NEBRASKA.**

Vice-President, ELEAZER WAKELEY, . . . . . Omaha.  
 Local Council, EDMUND M. BARTLETT, . . . Omaha.  
                   IRVING F. BAXTER, . . . . . Omaha.  
                   RALPH W. BRECKENRIDGE, Omaha.  
                   FRANCIS A. BROGAN, . . . . . Omaha.  
                   CHARLES B. LETTON, . . . . . Fairbury.  
                   WILLIAM D. McHUGH, . . . . . Omaha.  
                   MANOAH B. REESE, . . . . . Lincoln.  
                   HENRY H. WILSON, . . . . . Lincoln.

**NEW HAMPSHIRE.**

Vice-President, OLIVER E. BRANCH, . . . . . Manchester.  
 Local Council, IRA A. CHASE, . . . . . Bristol.  
                   SAMUEL C. EASTMAN, . . . . . Concord.

## NEW JERSEY.

Vice-President, CHARLES BORCHERLING, . Newark.  
 Local Council, SAMUEL H. GREY, . . . . Camden.  
     A. Q. GARRETSON, . . . . Jersey City.  
     EDWARD Q. KEASBEY, . . . Newark.  
     JOHN R. HARDIN, . . . . Newark.  
     ALAN H. STRONG, . . . . New Brunswick.  
     FREDERICK PARKER, . . . Freehold.

## NEW MEXICO.

Vice-President, THOMAS B. CATRON, . . . . Santa Fe.

## NEW YORK.

Vice-President, WALTER S. LOGAN, . . . . New York.  
 Local Council, AUSTEN G. FOX, . . . . New York.  
     EVERETT P. WHEELER, . . . New York.  
     GRENVILLE M. INGALSBE, . Sandy Hill.  
     WALDO G. MORSE, . . . . New York.  
     FERDINAND SHACK, . . . . New York.  
     DONALD McLEAN, . . . . New York.  
     HENRY GALBRAITH WARD, . New York.  
     FRANKLIN M. DANAHER, . Albany.  
     FREDERICK E. WADHAMS, . Albany.  
     JOHN NICOLSON, JR., . . . New York.

## NORTH CAROLINA.

Vice-President, JOHN L. BRIDGERS, . . . . Tarboro.  
 Local Council, L. H. CLEMENT, . . . . Salisbury.  
     THOMAS N. HILL, . . . . Halifax.  
     J. CRAWFORD BIGGS, . . . Durham,  
     FABIUS H. BUSHBEE, . . . Raleigh.  
     WILLIAM D. PRUDEN, . . . Edenton.

## NORTH DAKOTA.

Vice-President, JAMES H. BOSARD, . . . . Grand Forks.  
 Local Council, BURLEIGH F. SPALDING, . Fargo.  
     JAMES M. AUSTIN, . . . . Ellendale.

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SMITH, ROBERT WAVERLEY,	Galveston, Texas.
SMITH, RUFUS B.,	Cincinnati, Ohio.
SMITH, SAM. FERRY,	San Diego, Cal.
SMITH, SIDNEY,	New York, N. Y.
SMITH, WALTER GEORGE,	Philadelphia, Pa.
SMITH, WILLIAM ALDEN,	Grand Rapids, Mich.
SMITH, WILLIAM B.,	Little Rock, Ark.
SMITH, WILLIS B.,	Richmond, Va.

SMYTH, CONSTANTINE J.,	Omaha, Neb.
SMYTHE, AUGUSTINE T.,	Charleston, S. C.
SNARE, JACOB,	Philadelphia, Pa.
SNOW, ALPHEUS H.,	Washington, D. C.
SNOW, DAVID W.,	Portland, Me.
SOMERVILLE, THOMAS H.,	University, Miss.
SPOALDING, BURLEIGH FOLSOM,	Fargo, N. D.
SPEAR, WILLIAM T.,	Columbus, Ohio.
SPEIR, GILBERT M.,	New York, N. Y.
SPENCER, CHARLES C.,	Monticello, Ind.
SPENCER, SELDEN P.,	St. Louis, Mo.
SPOONER, CHARLES P.,	Milwaukee, Wis.
SPOONER, JOHN C.,	Madison, Wis.
SPOONTS, M. A.,	Fort Worth, Texas.
SPRING, ARTHUR L.,	Boston, Mass.
SQUIRE, ANDREW,	Cleveland, Ohio.
STAABE, WILLIAM H.,	Philadelphia, Pa.
STAFFORD, W. H.,	Chippewa Falls, Wis.
STANTON, LEWIS E.,	Hartford, Conn.
STARK, JOSHUA,	Milwaukee, Wis.
STARKWEATHER, JAMES C.,	Denver, Col.
STARR, MERRITT,	Chicago, Ill.
STEARNS, CHARLES F.,	Providence, R. I.
STEELE, HENRY J.,	Easton, Pa.
STEELE, ROBERT W.,	Denver, Col.
STERRETT, JAMES R.,	Pittsburg, Pa.
STETSON, FRANCIS LYNDE,	New York, N. Y.
STEUART, ARTHUR,	Baltimore, Md.
STEVENS, BREEZE J.,	Madison, Wis.
STEVENS, FREDERICK W.,	Grand Rapids, Mich.
STEVENS, HIRAM F.,	St. Paul, Minn.
STEVENSON, ARCHIE M.,	Denver, Col.
STEVENSON, ELMER E.,	Indianapolis, Ind.
STEVICK, GUY LE ROY,	Denver, Col.
STEWART, GILBERT H.,	Columbus, Ohio.
STEWART, W. F. BAY,	York, Pa.
STILLMAN, HERMAN W.,	Chicago, Ill.
STILLMAN, THOMAS E.,	New York, N. Y.
STILLMAN, WALTER S.,	Council Bluffs, Iowa.
STILLWELL, JAMES C.,	Philadelphia, Pa.
STIMSON, EDWARD C.,	Colorado Springs, Col.
STIMSON, FREDERIC J.,	Boston, Mass.
STINESS, JOHN H.,	Providence, R. I.
STOCKBRIDGE, HENRY,	Baltimore, Md.
STOEHR, OSCAR,	Cincinnati, Ohio.

STOEYER, WILLIAM C.,	Philadelphia, Pa.
STONE, FREDERICK M.,	Boston, Mass.
STONE, HENRY L.,	Louisville, Ky.
STONE, J. W.,	Marquette, Mich.
STORRY, MOORFIELD,	Boston, Mass.
STORROW, JAMES J., JR.,	Boston, Mass.
STOUGHTON, A. B.,	Philadelphia, Pa.
STRATTON, CHARLES E.,	Boston, Mass.
STRAWERIDGE, WILLIAM C.,	Philadelphia, Pa.
STREETER, FRANK S.,	Concord, N. H.
STRONG, ALAN H.,	New Brunswick, N. J.
STRONG, EDWARD W.,	Cincinnati, Ohio.
STROUT, SEWALL C.,	Portland, Me.
STUART, WILLIAM V.,	LaFayette, Ind.
STUBBS, G. W.,	Superior, Neb.
SULEBERGER, MAYER,	Philadelphia, Pa.
SUMNER, EDWARD A.,	New York, N. Y.
SWAIN, CHARLES M.,	Philadelphia, Pa.
SWAN, CHARLES H.,	Boston, Mass.
SWAN, ELBERT M.,	Rockport, Ind.
SWAN, WILLIAM W.,	Boston, Mass.
SWANEY, W. B.,	Chattanooga, Tenn.
SWASEY, GEORGE R.,	Boston, Mass.
SWAYNE, FRANCIS B. (New York, N. Y.),	Toledo, Ohio.
SWAYZE, FRANCOIS J.,	Newark, N. J.
SWETTING, ERNEST V.,	Algona, Iowa.
SWIFT, CHARLES M.,	Detroit, Mich.
SWISHER, A. E.,	Iowa City, Iowa.
SYMONDS, JOSEPH W.,	Portland, Me.
TAFT, ELIHU B.,	Burlington, Vt.
TAFT, WILLIAM H.,	Cincinnati, Ohio.
TAGGART, EDWARD,	Grand Rapids, Mich.
TAGGART, RUSH,	New York, N. Y.
TALBOT, RALPH,	Denver, Col.
TALCOTT, WILLIAM E.,	Cleveland, Ohio.
TATUM, LOUIS R.,	Denver, Col.
TAUSSIG, JAMES,	St. Louis, Mo.
TAYLOR, JOHN D.,	New York, N. Y.
TAYLOR, JOSEPH T.,	Philadelphia, Pa.
TAYLOR, R. S.,	Fort Wayne, Ind.
TAYLOR, WILLIAM L.,	Indianapolis, Ind.
TEARS, DANIEL W.,	Denver, Col.
TEBBETTS, WILLIAM B.,	Denver, Col.
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TENNEY, DANIEL K.,	Madison, Wis.

TENNEY, HORACE KENT, . . . . .	Chicago, Ill.
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TERRY, J. W., . . . . .	Galveston, Texas.
THAYER, AMOS M., . . . . .	St. Louis, Mo.
THAYER, JAMES BRADLEY, . . . . .	Cambridge, Mass.
THAYER, RUFUS C., . . . . .	Colorado Springs, Col.
THOM, ALFRED P., . . . . .	Norfolk, Va.
THOMAN, LEROY D., . . . . .	Chicago, Ill.
THOMAS, CHARLES S., . . . . .	Denver, Col.
THOMAS, WILLIAM S., . . . . .	Baltimore, Md.
THOMPSON, A. E., . . . . .	Oshkosh, Wis.
THOMPSON, JOSEPH, . . . . .	Atlantic City, N. J.
THOMPSON, R. H., . . . . .	Jackson, Miss.
THOMPSON, SEYMOUR D., . . . . .	New York, N. Y.
THOMPSON, WILLIAM B., . . . . .	St. Louis, Mo.
THOMSON, CHARLES I., . . . . .	Denver, Col.
THORNTON, CHARLES S., . . . . .	Chicago, Ill.
THUM, WILLIAM WARWICK, . . . . .	Louisville, Ky.
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THURSTON, WILMARTH H., . . . . .	Providence, R. I.
TICHENOR, CHARLES O., . . . . .	Kansas City, Mo.
TIGHE, AMBROSE, . . . . .	St. Paul, Minn.
TILLINGHAST, JAMES, . . . . .	Providence, R. I.
TILLMAN, A. M., . . . . .	Nashville, Tenn.
TITUS, FRANK, . . . . .	Kansas City, Mo.
TITUS, H. L., . . . . .	San Diego, Cal.
TODD, M. HAMPTON, . . . . .	Philadelphia, Pa.
TOLLES, SHIRLEY H., . . . . .	Cleveland, Ohio.
TOMPKINS, HAMILTON B., . . . . .	New York, N. Y.
TOMPKINS, HENRY B., . . . . .	Atlanta, Ga.
TONEY, STERLING B., . . . . .	Louisville, Ky.
TORRANCE, DAVID, . . . . .	Derby, Conn.
TOWLE, HENRY S., . . . . .	Chicago, Ill.
TOWNES, WILLIAM A., . . . . .	Richmond, Va.
TOWNSEND, CHARLES C., . . . . .	Philadelphia, Pa.
TOWNSEND, WILLIAM K., . . . . .	New Haven, Conn.
TRABUE, E. F., . . . . .	Louisville, Ky.
TREMAIN, HENRY E., . . . . .	New York, N. Y.
TRICKETT, WILLIAM, . . . . .	Carlisle, Pa.
TRIMBLE, J. MCD., . . . . .	Kansas City, Mo.
TRIPP, BARTLETT, . . . . .	Yankton, S. D.
TRIPPET, OSCAR A., . . . . .	San Diego, Cal.
TROUP, JAMES O., . . . . .	Bowling Green, Ohio.
TROWBRIDGE, HENRY, . . . . .	Cripple Creek, Col.
TROY, ALEXANDER, . . . . .	Montgomery, Ala.
TUCKER, GEORGE F., . . . . .	Boston, Mass.

TUCKER, HENRY ST. GEORGE, . . . . .	Lexington, Va.
TURNER, HERBERT B., . . . . .	New York, N. Y.
TURNER, JESSE, . . . . .	Van Buren, Ark.
TURNER, SMITH D., . . . . .	Parkersburg, W. Va.
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TYLER, CHARLES H., . . . . .	Boston, Mass.
ULLMAN, FREDERIC, . . . . .	Chicago, Ill.
URNER, MILTON G., . . . . .	Frederick, Md.
VAILE, JOEL F., . . . . .	Denver, Col.
VANAMKE, WILLIAM, . . . . .	Newburgh, N. Y.
VAN DEVANTER, WILLIS (Washington, D. C.), . . . . .	Cheyenne, Wyo.
VAN DEVENTER, HORACE, . . . . .	Knoxville, Tenn.
VAN DYKE, GEORGE D., . . . . .	Milwaukee, Wis.
VAN DYKE, WILLIAM D., . . . . .	Milwaukee, Wis.
VAN CISE, EDWIN, . . . . .	Denver, Col.
VAN SLYCK, GEORGE F., . . . . .	New York, N. Y.
VAN SLYCK, GEORGE W., . . . . .	New York, N. Y.
VAN VECHTEN, A. V. W., . . . . .	New York, N. Y.
VAN ORSDEL, JOSIAH A., . . . . .	Cheyenne, Wyo.
VAN WINKLE, W. W., . . . . .	Parkersburg, W. Va.
VARIAN, CHARLES S., . . . . .	Salt Lake City, Utah.
VATES, WILLIAM B., . . . . .	Pueblo, Col.
VENABLE, RICHARD M., . . . . .	Baltimore, Md.
VERTREES, J. J., . . . . .	Nashville, Tenn.
VIEU, HENRY A., . . . . .	New York, N. Y.
VILAS, EDWARD P., . . . . .	Milwaukee, Wis.
VILLARD, HAROLD G., . . . . .	New York, N. Y.
VINTON, HENRY H., . . . . .	La Fayette, Ind.
VON MOSCHZISKE, ROBERT, . . . . .	Philadelphia, Pa.
VOORHEES, J. H., . . . . .	Pueblo, Col.
VOORHEES, JOHN H., . . . . .	Sioux Falls, S. D.
VROMAN, CHARLES E., . . . . .	Chicago, Ill.
VROOM, GARRET D. W., . . . . .	Trenton, N. J.
WADE, M. J., . . . . .	Iowa City, Iowa.
WADHAMS, FREDERICK E., . . . . .	Albany, N. Y.
WADLEY, WILLIAM H., . . . . .	Denver, Col.
WAGGENER, BALIE P., . . . . .	Atchison, Kan.
WAKELEY, ARTHUR C., . . . . .	Omaha, Neb.
WAKELEY, ELEAZER, . . . . .	Omaha, Neb.
WALD, GUSTAVUS H., . . . . .	Cincinnati, Ohio.
WALKER, ALBERT H., . . . . .	New York, N. Y.
WALKER, P. D., . . . . .	Charlotte, N. C.
WALKER, ROBERT J. C., . . . . .	Philadelphia, Pa.
WALL, GEORGE W., . . . . .	Du Quoin, Ill.
WALL, THOMAS B., . . . . .	Wichita, Kan.

WALLING, STUART D.,	Denver, Col.
WALSH, R. JAY,	Greenwich, Conn.
WALSH, WILLIAM E.,	Cumberland, Md.
WALTER, M. R.,	Baltimore, Md.
WALTHALL, A. M.,	El Paso, Texas.
WALTON, HENRY F.,	Philadelphia, Pa.
WAMBAUGH, EUGENE,	Cambridge, Mass.
WANTY, GEORGE P.,	Grand Rapids, Mich.
WARD, CLARENCE C.,	St. Louis, Mo.
WARD, HAMILTON,	Buffalo, N. Y.
WARD, HENRY GALBRAITH,	New York, N. Y.
WARD, HERBERT H.,	Wilmington, Del.
WARD, HUGH C.,	Kansas City, Mo.
WARD, THOMAS, JR.,	Denver, Col.
WARD, WILBERT,	South Bend, Ind.
WARFIELD, EDWIN,	Baltimore, Md.
WARNER, DONALD T.,	Salisbury, Conn.
WARNER, GEORGE COFFING,	New York, N. Y.
WARNER, JOHN DEWITT,	New York, N. Y.
WARNER, JOSEPH B.,	Boston, Mass.
WARREN, SAMUEL D.,	Boston, Mass.
WARRINGTON, JOHN W.,	Cincinnati, Ohio.
WARVELLE, GEORGE W.,	Chicago, Ill.
WASHBURN, WILLIAM D.,	Chicago, Ill.
WATERMAN, CHARLES W.,	Denver, Col.
WATERS, J. S. T.,	Baltimore, Md.
WATROUS, GEORGE D.,	New Haven, Conn.
WATSON, D. T.,	Pittsburg, Pa.
WATTERSON, A. V. D.,	Pittsburg, Pa.
WATTS, LEIGH R.,	Portsmouth, Va.
WATTS, THOMAS H.,	Montgomery, Ala.
WATTS, WILLIAM W.,	Louisville, Ky.
WAYLAND, FRANCIS,	New Haven, Conn.
WEADOCK, THOMAS A. E.,	Detroit, Mich.
WEART, SPENCER,	Jersey City, N. J.
WEAVER, CLEMENT E.,	Adrian, Mich.
WEAVER, JOHN,	Philadelphia, Pa.
WEBB, GEORGE C.,	Lexington, Ky.
WEBB, JAMES H.,	New Haven, Conn.
WEBSTER, W. H.,	Oconto, Wis.
WEEKS, WILLIAM R.,	New York, N. Y.
WEGG, DAVID S.,	Chicago, Ill.
WEIL, A. LEO,	Pittsburg, Pa.
WELLMAN, ARTHUR H.,	Boston, Mass.
WELLS, ROLLIN J.,	Sioux Falls, S. D.



WEST, JACOB W.,	Omaha, Neb.
WHET, ROBERT G.,	Austin, Texas.
WHET, ROY O.,	Chicago, Ill.
WHITCOX, MELVILLE M.,	Boston, Mass.
WHITCOX-SMITH, R. D.,	Boston, Mass.
WETTERBERG, WILLIAM H.,	Detroit, Mich.
WETMORE, EDMUND,	New York, N. Y.
WHEELER, ARTHUR DANA,	Chicago, Ill.
WHEELER, EVERETT P.,	New York, N. Y.
WHEELER, SETH S.,	Lima, Ohio.
WHELAN, RALPH,	Minneapolis, Minn.
WHIFFLE, SHERMAN L.,	Boston, Mass.
WHITCOMB, LARK A.,	Indianapolis, Ind.
WHITE, BENJAMIN T.,	Omaha, Neb.
WHITE, HENRY C.,	New Haven, Conn.
WHITE, LUTHER,	Chicopee, Mass.
WHITE, PETER,	Marquette, Mich.
WHITE, S. HARRISON,	Pueblo, Col.
WHITELEY, RICHARD H.,	Boulder, Col.
WHITELOCK, GEORGE,	Baltimore, Md.
WHITESIDE, HOUSTON,	Hutchinson, Kan.
WHITTAKER, EGERT,	Saugerties, N. Y.
WHITTEMORE, JAMES,	Detroit, Mich.
WIGMAN, J. H. M.,	Green Bay, Wis.
WIGMORE, JOHN H.,	Chicago, Ill.
WILCOX, ANSLEY,	Buffalo, N. Y.
WILCOX, WILLIAM A.,	Scranton, Pa.
WILFLEY, LEBBEUS M.,	St. Louis, Mo.
WILLARD, EDWARD N.,	Scranton, Pa.
WILLARD, GEORGE,	Chicago, Ill.
WILLARD, NORMAN P.,	Chicago, Ill.
WILCOX, DAVID,	New York, N. Y.
WILCOX, W. F.,	Chester, Conn.
WILLETT, JOSEPH J.,	Anniston, Ala.
WILLIAMS, CHARLES M.,	Hutchinson, Kan.
WILLIAMS, CHARLES U.,	Richmond, Va.
WILLIAMS, DAVID W.,	Boston, Mass.
WILLIAMS, E. P.,	Galesburg, Ill.
WILLIAMS, E. RANDOLPH,	Richmond, Va.
WILLIAMS, HENRY W.,	Baltimore, Md.
WILLIAMS, JOHN G.,	Indianapolis, Ind.
WILLIAMS, P. L.,	Salt Lake City, Utah.
WILLIAMS, R. W.,	Tallahassee, Fla.
WILLIAMS, STEVENSON A.,	Bel Air, Md.
WILLIAMS, W. MOSBY,	Washington, D. C.

WILLIAMSON, SAMUEL E.,	Cleveland, Ohio.
WILLIAMSON, W. PRESTON,	Washington, D. C.
WILLIS, GEORGE R.,	Baltimore, Md.
WILLISTON, SAMUEL,	Belmont, Mass.
WILMER L. ALLISON,	La Plata, Md.
WILSON, CHARLES M.,	Grand Rapids, Mich.
WILSON, F. A.,	Bangor, Me.
WILSON, HENRY H.,	Lincoln, Neb.
WILSON, JOHN R.,	Indianapolis, Ind.
WILSON, NATHANIEL,	Washington, D. C.
WILSON, WOODROW,	Princeton, N. J.
WIMBISH, W. A.,	Columbus, Ga.
WINDLE, WILLIAM S.,	West Chester, Pa.
WING, HENRY T.,	New York, N. Y.
WINKLER, FREDERICK C.,	Milwaukee, Wis.
WINTERITZ, BENJAMIN A.,	New Castle, Pa.
WIET, JOHN S.,	Elkton, Md.
WISE, JESSE H.,	Pittsburg, Pa.
WISE, JOHN S.,	New York, N. Y.
WISWELL, ANDREW P.,	Ellsworth, Me.
WITHINGTON, DAVID L.,	San Diego, Cal.
WITHROW, JAMES E.,	St. Louis, Mo.
WOLCOTT, EDWARD O.,	Denver, Col.
WOLF, GUSTAVE A.,	Grand Rapids, Mich.
WOLLMAN, HENRY,	New York, N. Y.
WOLVERTON, SIMON P.,	Sunbury, Pa.
WOOD, JOHN M.,	St. Louis, Mo.
WOODARD, CHARLES F.,	Bangor, Me.
WOODMAN, EDWARD,	Portland, Me.
WOODRUFF, GEORGE M.,	Litchfield, Conn.
WOODRUFF, ROBERT S.,	Trenton, N. J.
WOODS, CHARLES A.,	Marion, S. C.
WOODS, FRANK H.,	Lincoln, Neb.
WOODS, JOHN CARTER BROWN,	Providence, R. I.
WOODS, WILLIAM W.,	Wallace, Idaho.
WOOLLEN, EVANS,	Indianapolis, Ind.
WOOLLEY, JAMES H.,	Grand Island, Neb.
WOOLSEY, THEO. S.,	New Haven, Conn.
WOOLWORTH, JAMES M.,	Omaha, Neb.
WORK, JAMES C.,	Uniontown, Pa.
WORKS, JOHN D.,	Los Angeles, Cal.
WORTHINGTON, WILLIAM,	Cincinnati, Ohio.
WURDEMAN, G. A.,	St. Louis, Mo.
WURTS, JOHN,	New Haven, Conn.
WYMAN, HENRY A.,	Boston, Mass.

YANCEY, DAVID WALKER, . . . . .	Muskogee, I. T.
YEAMAN, CALDWELL, . . . . .	Denver, Col.
YOUNG, FRANK A., . . . . .	Fort Smith, Ark.
YOUNG, DAVID K., . . . . .	Clinton, Tenn.
YOUNG, GEORGE B., . . . . .	St. Paul, Minn.
YOUNG, GEORGE R., . . . . .	Dayton, Ohio.
YOUNG, HENRY E., . . . . .	Charleston, S. C.
YOUNKER, B. A., . . . . .	Des Moines, Iowa.
ZEISLER, SIGMUND, . . . . .	Chicago, Ill.

## MEMBERS—AUGUST, 1901-1902.

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HARRISON, GEORGE P., . . . . .	Opelika.
LONDON, ALEXANDER T., . . . . .	Birmingham.
McCLELLAN, THOMAS N., . . . . .	Montgomery.
RUSSELL, EDWARD L., . . . . .	Mobile.
TROY, ALEXANDER, . . . . .	Montgomery.
WATTS, THOMAS H., . . . . .	Montgomery.
WILLETT, JOSEPH J., . . . . .	Anniston.

### ALASKA TERRITORY.

HILLS, W. J., . . . . .	Juneau.
JENNINGS, ROBERT, . . . . .	Skagway.
PRICE, J. G., . . . . .	Skagway.

### ARIZONA.

BARNES, WILLIAM H., . . . . .	Tucson.
ELLINWOOD, EVERETT E., . . . . .	Prescott.
HEENDON, JOHN C., . . . . .	Prescott.
MORRISON, ROBERT E., . . . . .	Prescott.
SANFORD, ELISHA M., . . . . .	Prescott.

### ARKANSAS.

BOONE, THOS. W. M., . . . . .	Fort Smith.
CANTRELL, DEADERICK HARRELL, . . . . .	Little Rock.
COCKRILL, ASHLEY, . . . . .	Little Rock.
COHN, M. M., . . . . .	Little Rock.
DuVAL, BEN. T., . . . . .	Fort Smith.
FLETCHER, JOHN, . . . . .	Little Rock.
HILL, JOSEPH M., . . . . .	Fort Smith.
HORNER, JOHN J., . . . . .	Helena.
MARTIN, THOMAS B., . . . . .	Little Rock.
MCDONOUGH, JAMES B., . . . . .	Fort Smith.
MCLoud, J. W., . . . . .	Little Rock.
READ, JAMES F., . . . . .	Fort Smith.
ROSE, GEORGE B., . . . . .	Little Rock.
ROSE, U. M., . . . . .	Little Rock.
SMITH, WILLIAM B., . . . . .	Little Rock.
TURNER, JESSE, . . . . .	Van Buren.
YOUNG, FRANK A., . . . . .	Fort Smith.

## CALIFORNIA.

BRITT, E. W., . . . . .	Los Angeles.
CHICKERING, W. H., . . . . .	San Francisco.
CORBET, BURKE, . . . . .	San Francisco.
FULLER, GEORGE, . . . . .	San Diego.
GIBSON, JAMES A., . . . . .	Los Angeles.
GIBSON, WILLIAM K., . . . . .	Riverside.
HAYNE, ROBERT Y., . . . . .	San Francisco.
HELM, LYNN, . . . . .	Los Angeles.
HUNSAKER, WILLIAM J., . . . . .	Los Angeles.
MONROE, CHARLES, . . . . .	Los Angeles.
MCALLISTER, HALL, . . . . .	San Francisco.
MCDONALD, J. WADE, . . . . .	San Diego.
OLNEY, WARREN, . . . . .	San Francisco.
OTIS, GEORGE E., . . . . .	San Bernardino.
ROSE, WALTER T. J., . . . . .	Los Angeles.
SMITH, SAM. FERRY, . . . . .	San Diego.
TITUS, H. L., . . . . .	San Diego.
TRIPPET, OSCAR A., . . . . .	San Diego.
WITHINGTON, DAVID L., . . . . .	San Diego.
WORKS, JOHN D., . . . . .	Los Angeles.

## COLORADO.

ALLEN, GEORGE W., . . . . .	Denver.
BABB, HENRY B., . . . . .	Denver.
BABBITT, KURNEL R., . . . . .	ColoradoSprings.
BARTELS, G. C., . . . . .	Denver.
BEAMAN, DAVID C., . . . . .	Denver.
BENNETT, EDMON G., . . . . .	Denver.
BISSELL, JULIUS B., . . . . .	Denver.
BLAIR, JESSE H., . . . . .	Denver.
BLOOD, JAMES H., . . . . .	Denver.
BONYNGE, ROBERT W., . . . . .	Denver.
BOUCK, FRANCIS E., . . . . .	Leadville.
BROOKS, FRANKLIN E., . . . . .	ColoradoSprings.
BRYANT, WM. H., . . . . .	Denver.
BUTLER, CALVIN P., . . . . .	Denver.
BUTLER, HUGH, . . . . .	Denver.
CAMPBELL, CHARLES M., . . . . .	Denver.
CAMPBELL, NORMAN M., . . . . .	ColoradoSprings.
CARPENTER, M. B., . . . . .	Denver.
CARPENTER, SAMUEL L., . . . . .	Denver.
CATLIN, F. D., . . . . .	Montrose.
CAVENDER, CHARLES, . . . . .	Leadville.

## COLORADO—Continued.

CHITTENDEN, G. I., . . . . .	Denver.
CHURCHILL, EDMUND J., . . . . .	Denver.
COSTIGAN, GEORGE P., JR., . . . . .	Denver.
CURTIS, LEONARD E., . . . . .	Colorado Springs.
CUTHBERT, LUCIUS M., . . . . .	Denver.
DAVIS, HARRY C., . . . . .	Denver.
DAWSON, CLYDE C., . . . . .	Canon City.
DECKER, WESTBROOK S., . . . . .	Denver.
DENISON, JOHN H., . . . . .	Denver.
DESOTO, E. D., . . . . .	Denver.
DIMMITT, GEORGE Z., . . . . .	Denver.
DINES, ORVILLE L., . . . . .	Denver.
DINES, TYSON S., . . . . .	Denver.
DOUD, A. L., . . . . .	Denver.
DOWNER, SYLVESTER S., . . . . .	Boulder.
DUNKLEE, GEORGE F., . . . . .	Denver.
EWING, JOHN A., . . . . .	Leadville.
FOOTE, ROBERT E., . . . . .	Denver.
FOWLER, A. J., . . . . .	Denver.
FOWLER, JO. A., . . . . .	Denver.
GABBERT, WILLIAM H., . . . . .	Denver.
GABRIEL, JOHN H., . . . . .	Denver.
GAST, CHARLES E., . . . . .	Pueblo.
GILES, BRANCH H., . . . . .	Denver.
GODDARD, LUTHER M., . . . . .	Denver.
GORDEN, JOHN A., . . . . .	Denver.
GOVE, FRANK E., . . . . .	Denver.
GREGG, FRANK E., . . . . .	Denver.
GRIER, ALBERT E., . . . . .	Denver.
GROZIER, JOSHUA, . . . . .	Denver.
GUNNELL, A. T., . . . . .	Colorado Springs.
GUNTER, JULIUS C., . . . . .	Trinidad.
HAGGOTT, W. A., . . . . .	Idaho Springs.
HALL, HENRY C., . . . . .	Colorado Springs.
HALLETT, MOSES, . . . . .	Denver.
HARDCASTLE, THOMAS H., . . . . .	Denver.
HARRISON, WILLIAM B., . . . . .	Denver.
HAYNES, H. N., . . . . .	Greeley.
HAYT, CHARLES D., . . . . .	Denver.
HERRINGTON, CASS E., . . . . .	Denver.
HERSEY, HENRY J., . . . . .	Denver.
HINCKLEY, L. E. C., . . . . .	Denver.
HODGES, GEORGE L., . . . . .	Denver.
HOOD, THOMAS H., . . . . .	Denver.

## COLORADO—Continued.

HOYT, LUCIUS W., . . . . .	Denver.
HUGHES, CHARLES J., JR., . . . . .	Denver.
JOHNSON, HENRY V., . . . . .	Denver.
KELLOGG, E. B., . . . . .	Denver.
KENT, EDWARD, . . . . .	Denver.
KILLIAN, JAMES R., . . . . .	Denver.
LEE, HARRY H., . . . . .	Denver.
LINDSEY, BENJAMIN B., . . . . .	Denver.
LINDSLEY, HENRY A., . . . . .	Denver.
LUNT, HORACE G., . . . . .	Colorado Springs
MANLY, GEORGE C., . . . . .	Denver.
MAUPIN, JOSEPH H., . . . . .	Canon City.
MAY, HENRY F., . . . . .	Denver.
MERRIMAN, CHARLES A., . . . . .	Alamosa.
MILLS, J. WARNER, . . . . .	Denver.
MCALLISTER, HENRY, JR., . . . . .	Colorado Springs.
MCCARTHY, T. F., . . . . .	Denver.
MCCREERY, JAMES W., . . . . .	Greeley.
McKNIGHT, RICHARD, . . . . .	Denver.
MCLEAN, LESTER, . . . . .	Denver.
O'DONNELL, THOMAS J., . . . . .	Denver.
PARSONS, CHARLES C., . . . . .	Denver.
PATTON, A. NEWTON, . . . . .	Denver.
PETERS, MEL E., . . . . .	Denver.
REGENNITTER, ERWIN L., . . . . .	Idaho Springs.
RIDDLE, HARVEY, . . . . .	Denver.
ROGERS, HENRY T., . . . . .	Denver.
ROGERS, PLATT, . . . . .	Denver.
SHAFROTH, JOHN F., . . . . .	Denver.
SMITH, EDWIN HARVEY, . . . . .	Denver.
SMITH, JOHN R., . . . . .	Denver.
STARKWEATHER, JAMES C., . . . . .	Denver.
STEELE, ROBERT W., . . . . .	Denver.
STEVENSON, ARCHIE M., . . . . .	Denver.
STEVICK, GUY LEROY, . . . . .	Denver.
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TALBOTT, RALPH, . . . . .	Denver.
TATUM, LOUIS R., . . . . .	Denver.
TEARS, DANIEL W., . . . . .	Denver.
TEBBETTS, WILLIAM B., . . . . .	Denver.
TELLER, WILLARD, . . . . .	Denver.
THAYER, RUFUS C., . . . . .	Colorado Springs.
THOMAS, CHARLES S., . . . . .	Denver.
THOMSON, CHARLES I., . . . . .	Denver.

## COLORADO—Continued.

TROWBRIDGE, HENRY, . . . . .	Cripple Creek.
VAILE, JOEL F., . . . . .	Denver.
VANCISE, EDWIN, . . . . .	Denver.
VATES, WILLIAM B., . . . . .	Pueblo.
VOORHEES, J. H., . . . . .	Pueblo.
WADLEY, WILLIAM H., . . . . .	Denver.
WALLING, STUART D., . . . . .	Denver.
WARD, THOMAS, JR., . . . . .	Denver.
WATERMAN, CHARLES W., . . . . .	Denver.
WHITE, S. HARRISON, . . . . .	Pueblo.
WHITELEY, RICHARD H., . . . . .	Boulder.
WOLCOTT, EDWARD O., . . . . .	Denver.
YEAMAN, CALDWELL, . . . . .	Denver.

## CONNECTICUT.

ARVINE, E. P., . . . . .	New Haven.
BALDWIN, SIMEON E., . . . . .	New Haven.
BEARDSLEY, MORRIS B., . . . . .	Bridgeport.
BEERS, GEORGE E., . . . . .	New Haven.
BREWSTER, LYMAN D., . . . . .	Danbury.
BRISCOE, CHARLES H., . . . . .	Hartford.
CLARK, JAMES GARDNER, . . . . .	New Haven.
CONANT, GEORGE A., . . . . .	Hartford.
CULVER, M. EUGENE, . . . . .	Middletown.
CURTIS, JULIUS B., . . . . .	Stamford.
GAGER, EDWIN B., . . . . .	Derby.
HARRIMAN, EDWARD AVERY, . . . . .	Derby.
HARRISON, LYNDE, . . . . .	New Haven.
HYDE, WILLIAM W., . . . . .	Hartford.
KELLOGG, STEPHEN W., . . . . .	Waterbury.
KNAPP, HOWARD H., . . . . .	Bridgeport.
NEWTON, HENRY G., . . . . .	New Haven.
PHELPS, CHARLES, . . . . .	Rockville.
RAYNOLDS, EDWARD V., . . . . .	New Haven.
ROBBINS, EDWARD D., . . . . .	Hartford.
ROGERS, EDWARD H., . . . . .	New Haven.
ROGERS, HENRY WADE, . . . . .	New Haven.
RUSSELL, TALCOTT H., . . . . .	New Haven.
SCOTT, HOWARD B., . . . . .	Danbury.
SEARLES, CHARLES E., . . . . .	Putnam.
SHUMWAY, MILTON A., . . . . .	Danielson.
STANTON, LEWIS E., . . . . .	Hartford.
TORRANCE, DAVID, . . . . .	Derby.



## CONNECTICUT—Continued.

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WALSH, R. JAY, . . . . .	Greenwich.
WARNER, DONALD T., . . . . .	Salisbury.
WATROUS, GEORGE D., . . . . .	New Haven.
WAYLAND, FRANCIS, . . . . .	New Haven.
WEBB, JAMES H., . . . . .	New Haven.
WHITE, HENRY C., . . . . .	New Haven.
WILLCOX, W. F., . . . . .	Chester.
WOODRUFF, GEORGE M., . . . . .	Litchfield.
WOOLSEY, THEO. S., . . . . .	New Haven.
WURTS, JOHN, . . . . .	New Haven.

## DELAWARE.

BRADFORD, EDWARD G., . . . . .	Wilmington.
GARLAND, SPOTTSWOOD, . . . . .	Wilmington.
GRAY, GEORGE, . . . . .	Wilmington.
GRUBB, IGNATIUS C., . . . . .	Wilmington.
HIGGINS, ANTHONY, . . . . .	Wilmington.
HILLES, WILLIAM S., . . . . .	Wilmington.
LORE, CHARLES B., . . . . .	Wilmington.
NICHOLSON, JOHN R., . . . . .	Dover.
NIELDS, BENJAMIN, . . . . .	Wilmington.
NIELDS, JOHN P., . . . . .	Wilmington.
SAULSBURY, WILLARD, . . . . .	Wilmington.
WARD, HERBERT H., . . . . .	Wilmington.

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BLAIR, JOHN S., . . . . .	Washington.
BOND, S. R., . . . . .	Washington.
BREWER, DAVID J., . . . . .	Washington.
BROWN, CHAPIN, . . . . .	Washington.
BROWN, HENRY B., . . . . .	Washington.
BROWNE, ALDIS B., . . . . .	Washington.
BROWNE, ARTHUR S., . . . . .	Washington.
CHURCH, MELVILLE, . . . . .	Washington.
DAVIS, HENRY E., . . . . .	Washington.
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EDMONSTON, WILLIAM E., . . . . .	Washington.
FISHER, ROBERT J., . . . . .	Washington.

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MICHENER, L. T.,	Washington.
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SMITH, LUTHER R.,	Washington.
SNOW, ALPHEUS H.,	Washington.
WILLIAMS, W. MOSBY,	Washington.
WILLIAMSON, W. PRENTON,	Washington.
WILSON, NATHANIEL,	Washington.

## FLORIDA.

AVERY, JOHN C.,	Pensacola.
BAKER, WILLIAM H.,	Jacksonville.

## FLORIDA—Continued.

BLOUNT, WILLIAM A., . . . . .	Pensacola.
FLETCHER, D. U., . . . . .	Jacksonville.
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MASSEY, LOUIS C., . . . . .	Orlando.
RHINEHART, C. B., . . . . .	Jacksonville.
WILLIAMS, R. W., . . . . .	Tallahassee.

## GEORGIA.

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ADAMS, SAMUEL B., . . . . .	Savannah.
AKIN, JOHN W., . . . . .	Cartersville.
ARNOLD, REUBEN R., . . . . .	Atlanta.
BARROW, POPE, . . . . .	Savannah.
BARTLETT, CHARLES L., . . . . .	Macon.
BRANDON, MORRIS, . . . . .	Atlanta.
CANN, J. FERRIS, . . . . .	Savannah.
CHARLTON, WALTER G., . . . . .	Savannah.
COLVILLE, FULTON, . . . . .	Atlanta.
CROVATT, A. J., . . . . .	Brunswick.
CUMMING, JOSEPH B., . . . . .	Augusta.
CUNNINGHAM, HENRY C., . . . . .	Savannah.
CUNNINGHAM, T. M., Jr., . . . . .	Savannah.
DE LACY, JOHN F., . . . . .	Eastman.
DUBIGNON, FLEMING G., . . . . .	Savannah.
ELLIS, W. D., . . . . .	Atlanta.
ERWIN, R. G., . . . . .	Savannah.
FALLIGANT, ROBERT, . . . . .	Savannah.
GARRARD, LOUIS F., . . . . .	Columbus.
GOETCHIUS, HENRY R., . . . . .	Columbus.
HILL, WALTER B., . . . . .	Athens.
KAY, WILLIAM E., . . . . .	Brunswick.
LAMAR, JOSEPH R., . . . . .	Augusta.
LAWTON, ALEXANDER R., . . . . .	Savannah.
LEAKEN, WILLIAM R., . . . . .	Savannah.
MACKALL, WILLIAM W., . . . . .	Savannah.
MELDRIM, P. W., . . . . .	Savannah.
MERRILL, JOSEPH HANSELL, . . . . .	Thomasville.
MILLER, FRANK H., . . . . .	Augusta.
MILLER, FRANK H., JR., . . . . .	Augusta.
MILLER, WILLIAM K., . . . . .	Augusta.
MCALPIN, HENRY, . . . . .	Savannah.
MCWHORTER, HAMILTON, . . . . .	Lexington.
NEWMAN, EMILE, . . . . .	Savannah.

## GEORGIA.—Continued.

OWENS, GEORGE W., . . . . .	Savannah.
PEABODY, FRANCIS D., . . . . .	Columbus.
SEABROOK, PAUL E., . . . . .	Pineora.
SMITH, BURTON, . . . . .	Atlanta.
TOMPKINS, HENRY B., . . . . .	Atlanta.
WIMBISH, W. A., . . . . .	Columbus.

## IDAHO.

MAYHEW, ALEXANDER E., . . . . .	Wallace.
ROBB, BAMFORD A., . . . . .	Boise.
WOODS, WILLIAM W., . . . . .	Wallace.

## ILLINOIS.

ANDREWS, JAMES D., . . . . .	Chicago.
AYER, B. F., . . . . .	Chicago.
BANCROFT, EDGAR A., . . . . .	Chicago.
BANNING, EPHRAIM, . . . . .	Chicago.
BARRETT, ELMER E., . . . . .	Chicago.
BARTON, GEORGE P., . . . . .	Chicago.
BEACH, MYRON H., . . . . .	Chicago.
BEALE, WILLIAM G., . . . . .	Chicago.
BLAIR, FRANK PRESTON, . . . . .	Chicago.
BONNEY, C. C., . . . . .	Chicago.
BOND, LESTER L., . . . . .	Chicago.
BRADWELL, JAMES B., . . . . .	Chicago.
BROWN, TAYLOR E., . . . . .	Chicago.
BURNHAM, TELFORD, . . . . .	Chicago.
BURROUGHS, BENJAMIN R., . . . . .	Edwardsville.
BURRY, WILLIAM, . . . . .	Chicago.
CAPEN, CHARLES L., . . . . .	Bloomington.
CATE, ALBION, . . . . .	Chicago.
CHANCELLOR, JUSTUS, . . . . .	Chicago.
DANIELS, FRANCIS B., . . . . .	Chicago.
DAVIS, HERBERT J., . . . . .	Chicago.
DENEEN, CHARLES S., . . . . .	Chicago.
DENT, THOMAS, . . . . .	Chicago.
DICKINSON, J. M., . . . . .	Chicago.
DREW, WILLIAM L., . . . . .	Urbana.
DYRENFORTH, PHILIP C., . . . . .	Chicago.
DYRENFORTH, WILLIAM H., . . . . .	Chicago.
EASTMAN, SYDNEY C., . . . . .	Chicago.
ESTABROOK, HENRY D., . . . . .	Chicago.
FENTRESS, JAMES, . . . . .	Chicago.

## ILLINOIS.—Continued.

FIELD, HEMAN H., . . . . .	Chicago.
FLOWER, JAMES M., . . . . .	Chicago.
FOLLANSBEE, GEORGE A., . . . . .	Chicago.
FURNESS, WILLIAM ELIOT, . . . . .	Chicago.
GARTSIDE, JOHN M., . . . . .	Chicago.
GIBBONS, JOHN, . . . . .	Chicago.
GOODRICH, ADAMS A., . . . . .	Chicago.
GREGORY, STEPHEN S., . . . . .	Chicago.
GROSSCUP, PETER S., . . . . .	Chicago.
HALL, THOMAS L., . . . . .	Chicago.
HAMLIN, JOHN H., . . . . .	Chicago.
HARDING, CHARLES F., . . . . .	Chicago.
HEBARD, FREDERIC S., . . . . .	Chicago.
HERRICK, JOHN J., . . . . .	Chicago.
HILL, LYSANDER, . . . . .	Chicago.
HOLDON, JESSE, . . . . .	Chicago.
HURD, HARVEY B., . . . . .	Chicago.
ISHAM, EDWARD S., . . . . .	Chicago.
JEWETT, JOHN N., . . . . .	Chicago.
JUNKIN, FRANCIS T. A., . . . . .	Chicago.
KENNA, EDWARD D., . . . . .	Chicago.
KRAUTHOFF, L. C., . . . . .	Chicago.
KRETZINGER, GEORGE W., . . . . .	Chicago.
LACKNER, FRANCIS, . . . . .	Chicago.
LAWSON, WILLIAM C., . . . . .	Chicago.
LEE, BLEWETT, . . . . .	Chicago.
LEVINSON, S. O., . . . . .	Chicago.
LOESCH, FRANK J., . . . . .	Chicago.
LOWDEN, FRANK O., . . . . .	Chicago.
MACK, JULIAN W., . . . . .	Chicago.
MANNING, WILLIAM J., . . . . .	Chicago.
MARTIN, HORACE H., . . . . .	Chicago.
MARTYN, CHAUNCEY W., . . . . .	Chicago.
MATHER, ROBERT, . . . . .	Chicago.
MERRICK, GEORGE PECK, . . . . .	Chicago.
MILLER, JOHN S., . . . . .	Chicago.
MORAN, THOMAS A., . . . . .	Chicago.
MOSES, ADOLPH, . . . . .	Chicago.
MUNGRAVE, HARRISON, . . . . .	Chicago.
MCCORDIC, ALFRED E., . . . . .	Chicago.
McELROY, JOHN H., . . . . .	Chicago.
OFFIELD, CHARLES K., . . . . .	Chicago.
OGDEN, HOWARD N., . . . . .	Chicago.
O'NEILL, HUGH, . . . . .	Chicago.

## ILLINOIS.—Continued.

OTIS, EPHRAIM A., . . . . .	Chicago.
PADDOCK, GEORGE L., . . . . .	Chicago.
PAGE, GEORGE T., . . . . .	Peoria.
PARKINSON, ROBERT H., . . . . .	Chicago.
PECK, GEORGE R., . . . . .	Chicago.
PENCE, ABRAM M., . . . . .	Chicago.
PINGREY, D. H., . . . . .	Bloomington.
PRUSSING, EUGENE E., . . . . .	Chicago.
RAYMOND, JAMES H., . . . . .	Chicago.
REED, FRANK F., . . . . .	Chicago.
RICHBERG, JOHN C., . . . . .	Chicago.
RINAHER, JOHN I., . . . . .	Carlinville.
RITSHER, EDWARD C., . . . . .	Chicago.
ROBBINS, HENRY S., . . . . .	Chicago.
ROGERS, ELMER E., . . . . .	Chicago.
ROGERS, GEORGE MILLS, . . . . .	Chicago.
ROSENTHAL, JULIUS, . . . . .	Chicago.
RUBENS, HARRY, . . . . .	Chicago.
RUNNELLS, JOHN S., . . . . .	Chicago.
SANDERS, GEORGE A., . . . . .	Springfield.
SCOTT, FRANK H., . . . . .	Chicago.
SCOTT, JAMES B., . . . . .	Champaign.
SHERIFF, ANDREW R., . . . . .	Chicago.
SHERMAN, E. B., . . . . .	Chicago.
SMITH, EDWIN BURRITT, . . . . .	Chicago.
STARR, MERRITT, . . . . .	Chicago.
STILLMAN, HERMAN W., . . . . .	Chicago.
TENNEY, HORACE KENT, . . . . .	Chicago.
THOMAN, LEROY D., . . . . .	Chicago.
THORNTON, CHARLES S., . . . . .	Chicago.
TOWLE, HENRY S., . . . . .	Chicago.
ULLMAN, FREDERIC, . . . . .	Chicago.
VROMAN, CHARLES E., . . . . .	Chicago.
WALI, GEORGE W., . . . . .	Du Quoin.
WARVELLE, GEORGE W., . . . . .	Chicago.
WASHBURN, WILLIAM D., . . . . .	Chicago.
WEGG, DAVID S., . . . . .	Chicago.
WEST, ROY O., . . . . .	Chicago.
WHEELER, ARTHUR DANA, . . . . .	Chicago.
WIGMORE, JOHN H., . . . . .	Chicago.
WILLARD, GEORGE, . . . . .	Chicago.
WILLARD, NORMAN P., . . . . .	Chicago.
WILLIAMS, E. P., . . . . .	Galesburg.
ZEISLER, SIGMUND, . . . . .	Chicago.

## INDIAN TERRITORY.

JACKSON, CLIFF E. L.	Mustang.
YASKEY, DAVID W.	Mustang.

## INDIANA.

BEAT HAMP, E. GEORGE E.	Tyden.
BLANCH, CHESTER	Indianapolis.
BRANT, ARTHUR W.	Muncie.
BRECK, WILLIAM P.	Fort Wayne.
BURKE, FRANK E.	Indianapolis.
BUSHNELL, WILLIAM S.	N. Vincennes.
BYLER, N. G. C.	Indianapolis.
CANT, FREDERICK W.	Indianapolis.
CARSON, JOHN F.	Indianapolis.
CHAMBERS, SHELLEY N.	Indianapolis.
CLAPHAM, WILLIAM E.	Bloomington.
CLARK, GEORGE E.	Soult Bend.
DANIEL, EDWARD	Indianapolis.
DAVIS, STEPHEN E.	Indianapolis.
DAVIS, THEODORE P.	Indianapolis.
DEMETRI, MARK L.	Valparaiso.
DYE, JOHN T.	Indianapolis.
ELLIS, W. WILLIAM F.	Indianapolis.
EVANS, EDWARD	Indianapolis.
FARRANCE, CHARLES W.	Indianapolis.
FISHER, JAMES WILLIAM	Indianapolis.
FRASER, DANIEL	Fowler.
FREY, PHILIP W.	Evansville.
GOODRICH, JAMES P.	Winchester.
GOULD, JOHN H.	Delphi.
HAMMOND, EDWIN P.	La Fayette.
HAWKINS, B. & F. O.	Indianapolis.
HEWITT, WILLIAM PENTLE	Indianapolis.
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JAMESON, OVID B.	Indianapolis.
JONES, FREDERICK A.	Indianapolis.
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KETCHAM, WILLIAM A.	Indianapolis.
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LOCKWOOD, VIRGIL H.	Indianapolis.
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MILLER, CHARLES W.	Cosburn.
MONTGOMERY, OSCAR H.	Seymour.
MORRIS, CHARLES W.	Indianapolis.

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MORRIS, NATHAN, . . . . .	Indianapolis.
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NEWBERGER, LOUIS, . . . . .	Indianapolis.
NOEL, JAMES W., . . . . .	Indianapolis.
PALMER, TRUMAN F., . . . . .	Monticello.
PENFIELD, W. L. (State Dep't, Washington, D.C.), . . . . .	Auburn.
PICKENS, SAMUEL O., . . . . .	Indianapolis.
PICKENS, WILLIAM A., . . . . .	Indianapolis.
REINHARD, GEORGE L., . . . . .	Bloomington.
ROGERS, WILLIAM P., . . . . .	Bloomington.
ROSE, JAMES E., . . . . .	Auburn.
SAYLER, SAMUEL M., . . . . .	Huntington.
SELLERS, EMORY B., . . . . .	Monticello.
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SMITH, CHARLES W., . . . . .	Indianapolis.
SPENCER, CHARLES C., . . . . .	Monticello.
STEVENSON, ELMER E., . . . . .	Indianapolis.
STUART, WILLIAM V., . . . . .	La Fayette.
SWAN, ELBERT M., . . . . .	Rockport.
TAYLOR, R. S., . . . . .	Fort Wayne.
TAYLOR, WILLIAM L., . . . . .	Indianapolis.
VINTON, HENRY H., . . . . .	La Fayette.
WARD, WILBERT, . . . . .	South Bend.
WHITCOMB, LAZAR A., . . . . .	Indianapolis.
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WILSON, JOHN R., . . . . .	Indianapolis.
WOOLLEN, EVANS, . . . . .	Indianapolis.

## IOWA.

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BURK, W. D., . . . . .	Muscatine.
CANADAY, WALTER, . . . . .	Boone.
CLIGGETT, JOHN, . . . . .	Mason City.
COLE, C. C., . . . . .	Des Moines.
CRAIG, JOHN E., . . . . .	Keokuk.
CROSBY, JAMES O., . . . . .	Garnaville.
CUMMINS, A. B., . . . . .	Des Moines.
DAVIS, JAMES C., . . . . .	Keokuk.
DEERY, JOHN, . . . . .	Dubuque.
DEVITT, J. F., . . . . .	Muscatine.
DILLE, JOHN I., . . . . .	Des Moines.



## IOWA.—Continued.

ITTSLEY, C. A., . . . . .	Des Moines.
ITTSLEY, JOHN F., . . . . .	Fort Dodge.
EATON, W. L., . . . . .	Cange.
EDWARDS, W. L., . . . . .	Sioux City.
EDWARDS, CHARLES NOBLE, . . . . .	Iowa City.
GUERNSEY, NATHANIEL T., . . . . .	Des Moines.
HAINES, ROBERT M., . . . . .	Grimm Bl.
HENDERSON, D. B., . . . . .	Dubuque.
HUNTER, ROBERT, . . . . .	Sioux City.
KINSE, L. G., . . . . .	Des Moines.
KIRBY, W. J., . . . . .	Dubuque.
LONGUEVILLE, J. C., . . . . .	Dubuque.
MCFFIT, JOHN T., . . . . .	Tipton.
MCCARTHY, J. J., . . . . .	Dubuque.
MCCLAIR, EMILIN, . . . . .	Iowa City.
MCCONLOGUE, JAMES H., . . . . .	Mason City.
MCNEIT, WILLIAM, . . . . .	Ottumwa.
PARSONS, JAMES M., . . . . .	Rock Rapids.
QUARTON, WILLIAM B., . . . . .	Algona.
REED, H. T., . . . . .	Cresco.
RICHARDS, HARRY S., . . . . .	Iowa City.
ROBERTS, W. J., . . . . .	Keokuk.
SEEVERS, GEORGE W., . . . . .	Oskaloosa.
SHERWIN, JOHN C., . . . . .	Mason City.
SHIRAS, OLIVER P., . . . . .	Dubuque.
STILLMAN, WALTER S., . . . . .	Council Bluffs.
SWETTING, ERNEST V., . . . . .	Algona.
SWISHER, A. E., . . . . .	Iowa City.
WADE, M. J., . . . . .	Iowa City.
YOUNKER, B. A., . . . . .	Des Moines.

## KANSAS.

CAMPBELL, PHILIP P., . . . . .	Pittsburgh.
ECKSTEIN, O. G., . . . . .	Wichita.
GREEN, J. W., . . . . .	Lawrence.
HIGGINS, WILLIAM E., . . . . .	Lawrence.
HOLT, WILLIAM G., . . . . .	Kansas City.
MARTIN, FRANK L., . . . . .	Hutchinson.
MILLIKEN, JOHN D., . . . . .	McPherson.
MOORE, J. MCCABE, . . . . .	Kansas City.
SMITH, CHARLES B., . . . . .	Topeka.
WAGGENER, BALIE P., . . . . .	Atchison.
WALL, THOMAS B., . . . . .	Wichita.
WHITESIDE, HOUSTON, . . . . .	Hutchinson.
WILLIAMS, CHARLES M., . . . . .	Hutchinson.

## KENTUCKY.

ALLEN, JOHN R., . . . . .	Lexington.
ALLEN, LAFON, . . . . .	Louisville.
BARR, JOHN W., . . . . .	Louisville.
BASKIN, JOHN B., . . . . .	Louisville.
BRUCE, HELM, . . . . .	Louisville.
BULLITT, THOMAS W., . . . . .	Louisville.
BULLITT, WILLIAM MARSHALL, . . . . .	Louisville.
DEMBITZ, LEWIS N., . . . . .	Louisville.
ELLIS, W. T., . . . . .	Owensboro.
GILBERT, GEORGE G., . . . . .	Shelbyville.
GRUBBS, CHARLES S., . . . . .	Louisville.
HARRIS, W. O., . . . . .	Louisville.
HELM, JAMES P., . . . . .	Louisville.
HUGHES, D. H., . . . . .	Morganfield.
KOHN, AARON, . . . . .	Louisville.
MACPHERSON, ERNEST, . . . . .	Louisville.
MARSHALL, BURWELL K., . . . . .	Louisville.
MORTON, J. R., . . . . .	Lexington.
MCDERMOTT, EDWARD J., . . . . .	Louisville.
PIRTLE, JAMES S., . . . . .	Louisville.
RAY, CHARLES T., . . . . .	Louisville.
SHERLEY, SWAGAR., . . . . .	Louisville.
STONE, HENRY L., . . . . .	Louisville.
THUM, WILLIAM WARWICK, . . . . .	Louisville.
TONEY, STERLING B., . . . . .	Louisville.
TRABUE, E. F., . . . . .	Louisville.
WATTS, WILLIAM W., . . . . .	Louisville.
WEBB, GEORGE C., . . . . .	Lexington.

## LOUISIANA.

ALEXANDER, TALIAFERRO, . . . . .	Shreveport.
BENEDICT, W. S., . . . . .	New Orleans.
BRICE, ALBERT G., . . . . .	New Orleans.
CAFFERY, DONELSON, . . . . .	Franklin.
DART, HENRY P., . . . . .	New Orleans.
DENÉGRE, GEORGE, . . . . .	New Orleans.
DENÉGRE, WALTER D., . . . . .	New Orleans.
FARRAR, EDGAR H., . . . . .	New Orleans.
FLORANCE, ERNEST T., . . . . .	New Orleans.
FORMAN, BENJAMIN RICE, . . . . .	New Orleans.
HALL, HARRY H., . . . . .	New Orleans.
HART, W. O., . . . . .	New Orleans.
HOWE, WILLIAM WIRT, . . . . .	New Orleans.

## LOUISIANA.—Continued.

HUNT, CARLETON, . . . . .	New Orleans.
KERNAN, THOMAS J., . . . . .	Baton Rouge.
KRUTTSCHNITT, ERNEST B., . . . . .	New Orleans.
LEGÈNDRE, JAMES, . . . . .	New Orleans.
MARR, ROBERT H., JR., . . . . .	New Orleans.
MERRICK, EDWIN T., . . . . .	New Orleans.
McCLOSKEY, BERNARD, . . . . .	New Orleans.
ROST, EMILE, . . . . .	New Orleans.

## MAINE.

APPLETON, FREDERICK H., . . . . .	Bangor.
BELCHER, S. CLIFFORD, . . . . .	Farmington.
BIRD, GEORGE E., . . . . .	Portland.
COOK, CHARLES SUMNER, . . . . .	Portland.
EMERY, LUCILLIUS A., . . . . .	Ellsworth.
HALE, CLARENCE, . . . . .	Portland.
HAMLIN, CHARLES, . . . . .	Bangor.
HAMLIN, HANNIBAL E., . . . . .	Ellsworth.
HIGGINS, FRANK M., . . . . .	Limerick.
LIBBY, CHARLES F., . . . . .	Portland.
LITTLEFIELD, CHARLES E., . . . . .	Rockland.
MADIGAN, JOHN B., . . . . .	Houlton.
PETERS, JOHN A., . . . . .	Bangor.
POWERS, FREDERICK A., . . . . .	Houlton.
SKELTON, WILLIAM B., . . . . .	Lewiston.
SNOW, DAVID W., . . . . .	Portland.
STROUT, SEWALL C., . . . . .	Portland.
SYMONDS, JOSEPH W., . . . . .	Portland.
WILSON, F. A., . . . . .	Bangor.
WISWELL, ANDREW P., . . . . .	Ellsworth.
WOODARD, CHARLES F., . . . . .	Bangor.
WOODMAN, EDWARD, . . . . .	Portland.

## MARYLAND.

ADKINS, WILLIAM H., . . . . .	Easton.
ALEXANDER, JULIAN J., . . . . .	Baltimore.
BARROLL, HOPE H., . . . . .	Chestertown.
BERNARD, RICHARD, . . . . .	Baltimore.
BONAPARTE, CHARLES J., . . . . .	Baltimore.
BRANTLY, WILLIAM T., . . . . .	Baltimore.
BRISCOE, JOHN P., . . . . .	Prince Frederick.
BROWN, STEWART, . . . . .	Baltimore.
BUCKLER, WILLIAM H., . . . . .	Baltimore.

## MARYLAND.—Continued.

CAREY, FRANCIS K., . . . . .	Baltimore.
COWEN, JOHN K., . . . . .	Baltimore.
CROSS, E. J. D., . . . . .	Baltimore.
DAWKINS, WALTER I., . . . . .	Baltimore.
DAWSON, WILLIAM H., . . . . .	Baltimore.
DINNEEN, JOHN H., . . . . .	Baltimore.
GAITHER, GEORGE R., JR., . . . . .	Baltimore.
GANS, EDGAR H., . . . . .	Baltimore.
GREGG, MAURICE, . . . . .	Baltimore.
HARLAN, HENRY D., . . . . .	Baltimore.
HARLEY, CHARLES F., . . . . .	Baltimore.
HAYES, THOMAS G., . . . . .	Baltimore.
HENDERSON, ROBERT R., . . . . .	Cumberland.
HINKLEY, JOHN, . . . . .	Baltimore.
HISKY, THOMAS FOLEY, . . . . .	Baltimore.
HOULTON, SAMUEL C., . . . . .	Baltimore.
HOWARD, CHARLES MORRIS, . . . . .	Baltimore.
HUGHES, THOMAS, . . . . .	Baltimore.
KNOTT, A. LEO, . . . . .	Baltimore.
LEAKIN, J. WILSON, . . . . .	Baltimore.
LOWNDES, LLOYD, . . . . .	Cumberland.
MACKALL, THOMAS B., . . . . .	Baltimore.
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MITCHELL, JOHN H., . . . . .	La Plata.
MORRIS, THOMAS J., . . . . .	Baltimore.
MULLIN, MICHAEL A., . . . . .	Baltimore.
MCCOMAS, LOUIS E., . . . . .	Hagerstown.
PAGE, HENRY, . . . . .	Princess Anne.
PERKINS, WILLIAM H., JR., . . . . .	Baltimore.
PHELPS, CHARLES E., . . . . .	Baltimore.
POE, JOHN PRENTISS, . . . . .	Baltimore.
PURNELL, CLAYTON, . . . . .	Frostburg.
RICHMOND, BENJAMIN A., . . . . .	Cumberland.
ROBINSON, RALPH, . . . . .	Baltimore.
ROBINSON, THOMAS H., . . . . .	Bel Air.
ROGERS, ROBERT LYON, . . . . .	Baltimore.
SAMS, CONWAY W., . . . . .	Baltimore.
SCHMUCKER, SAMUEL D., . . . . .	Baltimore.
SHARP, GEORGE M., . . . . .	Baltimore.
SLOAN, DAVID W., . . . . .	Cumberland.
SMITH, BEVERLY W., . . . . .	Baltimore.
STEUART, ARTHUR, . . . . .	Baltimore.
STOCKBRIDGE, HENRY, . . . . .	Baltimore.

## MARYLAND.—Continued.

THOMAS, WILLIAM S., . . . . .	Baltimore.
URNER, MILTON G., . . . . .	Frederick.
VENABLE, RICHARD M., . . . . .	Baltimore.
WALSH, WILLIAM E., . . . . .	Cumberland.
WALTER, M. R., . . . . .	Baltimore.
WARFIELD, EDWIN, . . . . .	Baltimore.
WATERS, J. S. T., . . . . .	Baltimore.
WHITELOCK, GEORGE, . . . . .	Baltimore.
WILLIAMS, HENRY W., . . . . .	Baltimore.
WILLIAMS, STEVENSON A., . . . . .	Bel Air.
WILLIS, GEORGE R., . . . . .	Baltimore.
WILMER, L. ALLISON, . . . . .	La Plata.
WIRT, JOHN S., . . . . .	Elkton.

## MASSACHUSETTS.

ADAMS, WALTER, . . . . .	So. Framingham.
ALLEN, FRANK D., . . . . .	Boston.
AMES, JAMES BARR, . . . . .	Cambridge.
ANDERSON, GEORGE W., . . . . .	Boston.
APPLETON, JOHN H., . . . . .	Boston.
BACON, GEORGE A., . . . . .	Springfield.
BARNES, CHARLES B., JR., . . . . .	Boston.
BEALE, JOSEPH HENRY, . . . . .	Cambridge.
BELL, C. U., . . . . .	Andover.
BENNETT, S. C., . . . . .	Boston.
BIGELOW, MELVILLE M., . . . . .	Boston.
BRANDEIS, LOUIS D., . . . . .	Boston.
BRANNAN, J. DODDRIDGE, . . . . .	Cambridge.
BROOKS, FRANCIS A., . . . . .	Boston.
BULLOCK, A. G., . . . . .	Worcester.
BUMPUS, EVERETT C., . . . . .	Boston.
CARVER, EUGENE P., . . . . .	Boston.
CHAMPLIN, EDGAR R., . . . . .	Boston.
CHANDLER, ALFRED D., . . . . .	Boston.
CLAPP, ROBERT P., . . . . .	Lexington.
CLARK, I. R., . . . . .	Boston.
CLIFFORD, CHARLES W., . . . . .	New Bedford.
COOLIDGE, WILLIAM H., . . . . .	Boston.
COPELAND, ALFRED M., . . . . .	Springfield.
CORCORAN, JOHN W., . . . . .	Boston.
COTTER, JAMES E., . . . . .	Boston.
CRAPO, WILLIAM W., . . . . .	New Bedford.
CROCKER, GEORGE G., . . . . .	Boston.

## MASSACHUSETTS.—Continued.

CUNNINGHAM, FREDERIC, . . . . .	Boston.
DABNEY, L. S., . . . . .	Boston.
DANA, WILLIAM S., . . . . .	Turner's Falls.
DAVIS, JOHN, . . . . .	Lowell.
DAVIS, SIMON, . . . . .	Boston.
DEWEY, HENRY S., . . . . .	Boston.
DICKINSON, M. F., . . . . .	Boston.
DILLAWAY, W. E. L., . . . . .	Boston.
DODGE, FREDERIC, . . . . .	Boston.
ERNST, GEORGE A. O., . . . . .	Boston.
FALL, GEORGE HOWARD, . . . . .	Malden.
FISH, FREDERICK P., . . . . .	Boston.
FOSTER, ALFRED D., . . . . .	Boston.
FOSTER, REGINALD, . . . . .	Boston.
FOX, JABEZ, . . . . .	Boston.
FRENCH, WILLIAM B., . . . . .	Boston.
GALLAGHER, CHARLES T., . . . . .	Boston.
GARGAN, THOMAS J., . . . . .	Boston.
GIDDINGS, CHARLES, . . . . .	GreatBarrington.
GOODWIN, FRANK, . . . . .	Boston.
GRAY, JOHN C., . . . . .	Boston.
GREENE, FREDERICK L., . . . . .	Greenfield.
HALL, BORDMAN, . . . . .	Boston.
HASKELL, FREDERICK F., . . . . .	Boston.
HEMENWAY, ALFRED, . . . . .	Boston.
HOWE, ELMER P., . . . . .	Boston.
HUNT, FREEMAN, . . . . .	Boston.
HURLBUTT, HENRY F., . . . . .	Lynn.
JENNINGS, ANDREW J., . . . . .	Fall River.
JOHNSON, BENJAMIN N., . . . . .	Boston.
JONES, LEONARD A., . . . . .	Boston.
KEITH, IRA B., . . . . .	Lynn.
KELLEN, WILLIAM V., . . . . .	Boston.
LADD, BABSON S., . . . . .	Boston.
LADD, NATH. W., . . . . .	Boston.
LAMB, SAMUEL O., . . . . .	Greenfield.
MORSE, GODFREY, . . . . .	Boston.
MORSE, ROBERT M., . . . . .	Boston.
MUNROE, WILLIAM A., . . . . .	Boston.
MYERS, JAMES J., . . . . .	Boston.
McEVoy, JOHN W., . . . . .	Lowell.
OLNEY, RICHARD, . . . . .	Boston.
PARKER, EDMUND M., . . . . .	Boston.
PAYSON, EDWARD P., . . . . .	Boston.

## MASSACHUSETTS.—Continued.

PIERCE, EDWARD P., . . . . .	Fitchburg.
PROCTOR, THOMAS W., . . . . .	Boston.
PUTNAM, HENRY W., . . . . .	Boston.
PUTNAM, WILLIAM L., . . . . .	Boston.
RANNEY, FLETCHER, . . . . .	Boston.
REED, MILTON, . . . . .	Fall River.
RICHARDSON, GEORGE F., . . . . .	Lowell.
RICHARDSON, W. K., . . . . .	Boston.
ROBERTS, GEORGE L., . . . . .	Boston.
RUSSELL, CHARLES THEODORE, . . . . .	Cambridge.
SAWYER, ALFRED P., . . . . .	Lowell.
SCAIFE, LAURISTON L., . . . . .	Boston.
SCHOFIELD, WILLIAM, . . . . .	Boston.
SCHOULER, JAMES, . . . . .	Boston.
SHEPARD, HARVEY N., . . . . .	Boston.
SMITH, HENRY HYDE, . . . . .	Boston.
SMITH, JEREMIAH, . . . . .	Cambridge.
SPRING, ARTHUR L., . . . . .	Boston.
STIMSON, FREDERIC J., . . . . .	Boston.
STONE, FREDERIC M., . . . . .	Boston.
STOREY, MOORFIELD, . . . . .	Boston.
STORROW, JAMES J., JR., . . . . .	Boston.
STRATTON, CHARLES E., . . . . .	Boston.
SWAN, CHARLES H., . . . . .	Boston.
SWAN, WILLIAM W., . . . . .	Boston.
SWASEY, GEORGE R., . . . . .	Boston.
THAYER, JAMES BRADLEY, . . . . .	Cambridge.
TUCKER, GEORGE F., . . . . .	Boston.
TYLER, CHARLES H., . . . . .	Boston.
WAMBAUGH, EUGENE, . . . . .	Cambridge.
WARNER, JOSEPH B., . . . . .	Boston.
WARREN, SAMUEL D., . . . . .	Boston.
WELLMAN, ARTHUR H., . . . . .	Boston.
WESTON, MELVILLE M., . . . . .	Boston.
WESTON-SMITH, R. D., . . . . .	Boston.
WHIPPLE, SHERMAN L., . . . . .	Boston.
WHITE, LUTHER, . . . . .	Chicopee.
WILLIAMS, DAVID W., . . . . .	Boston.
WILLISTON, SAMUEL, . . . . .	Belmont.
WYMAN, HENRY A., . . . . .	Boston.

## MICHIGAN.

BAKER, HERBERT L., . . . . .	Detroit.
BALDWIN, AUGUSTUS C., . . . . .	Pontiac.

## MICHIGAN.—Continued.

BALL, DAN H., . . . . .	Marquette.
BARRY, EDMUND D., . . . . .	Grand Rapids.
BATES, GEORGE W., . . . . .	Detroit.
BEAUMONT, JOHN W., . . . . .	Detroit.
BISSELL, JOHN H., . . . . .	Detroit.
BOUDEMAN, DALLAS, . . . . .	Kalamazoo.
BUNDY, McGEORGE, . . . . .	Grand Rapids.
CAMPBELL, CHARLES H., . . . . .	Detroit.
CAMPBELL, HENRY M., . . . . .	Detroit.
CHADBOURNE, THOMAS L., . . . . .	Houghton.
COWLES, ISRAEL T., . . . . .	Detroit.
CRANE, ALBERT, . . . . .	Grand Rapids.
DENISON, ARTHUR C., . . . . .	Grand Rapids.
DICKINSON, DON M., . . . . .	Detroit.
DRIGGS, FREDERICK E., . . . . .	Detroit.
DUFFIELD, HENRY M., . . . . .	Detroit.
DURAND, LORENZO T., . . . . .	Saginaw, E. S.
FITZGERALD, JOHN C., . . . . .	Grand Rapids.
HALL, EDMUND, . . . . .	Detroit.
HANCHETT, BENTON, . . . . .	Saginaw, W. S.
HARMON, HENRY A., . . . . .	Detroit.
HARSHA, WALTER S., . . . . .	Detroit.
HATCH, REUBEN, . . . . .	Grand Rapids.
HAYDEN, GEORGE, . . . . .	Ishpeming.
HOYT, HIRAM J., . . . . .	Muskegon.
HUTCHINS, HARRY B., . . . . .	Ann Arbor.
HYDE, WESLEY W., . . . . .	Grand Rapids.
JACOKES, JAMES A., . . . . .	Pontiac.
JANUARY, WILLIAM L., . . . . .	Detroit.
KEENEY, WILLARD F., . . . . .	Grand Rapids.
KELLY, RONALD, . . . . .	Detroit.
KENT, CHARLES A., . . . . .	Detroit.
KINGSLEY, WILLARD, . . . . .	Grand Rapids.
KINNE, EDWARD D., . . . . .	Ann Arbor.
KNAPPEN, LOYAL E., . . . . .	Grand Rapids.
LANE, V. H., . . . . .	Ann Arbor.
LIGHTNER, CLARENCE A., . . . . .	Detroit.
LILLIBRIDGE, WILLARD M., . . . . .	Detroit.
MECHEM, FLOYD R., . . . . .	Ann Arbor.
MEDDAUGH, ELIJAH W., . . . . .	Detroit.
MONTGOMERY, ROBERT M., . . . . .	Lansing.
MOORE, JOSEPH B., . . . . .	Lansing.
MOORE, WILLIAM A., . . . . .	Detroit.
MCGARRY, THOMAS F., . . . . .	Grand Rapids.



## MICHIGAN.—Continued.

McMILLAN, JAMES H.,	Detroit.
NORRIS, MARK,	Grand Rapids.
O'BRIEN, THOMAS J.,	Grand Rapids.
OSTRANDER, RUSSELL C.,	Lansing.
PARKHURST, JOHN G.,	Coldwater.
PATTERSON, JOHN C.,	Marshall.
PATTERSON, JOHN H.,	Pontiac.
PATTON, JOHN,	Grand Rapids.
PENDLETON, EDWARD W.,	Detroit.
POND, ASHLEY,	Detroit.
RADFORD, GEORGE W.,	Detroit.
ROBSON, FRANK E.,	Detroit.
RUSSELL, ALFRED,	Detroit.
RUSSELL, HENRY,	Detroit.
SMITH, WILLIAM ALDEN,	Grand Rapids.
STEVENS, FREDERICK W.,	Grand Rapids.
STONE, J. W.,	Marquette.
SWIFT, CHARLES M.,	Detroit.
TAGGART, EDWARD,	Grand Rapids.
WANTY, GEORGE P.,	Grand Rapids.
WEADOCK, THOMAS A. E.,	Detroit.
WEAVER, CLEMENT E.,	Adrian.
WETHERBEE, WILLIAM H.,	Detroit.
WHITE, PETER,	Marquette.
WHITTEMORE, JAMES,	Detroit.
WILSON, CHARLES M.,	Grand Rapids.
WOLF, GUSTAVE A.,	Grand Rapids.

## MINNESOTA.

ALBERT, CHARLES S.,	Minneapolis.
BROWN, FREDERICK V.,	Minneapolis.
BROWN, ROME G.,	Minneapolis.
COHEN, EMANUEL,	Minneapolis.
FLANDRAU, CHARLES E.,	St. Paul.
HAHN, WILLIAM J.,	Minneapolis.
KERR, WILLIAM A.,	Minneapolis.
LANCASTER, WILLIAM A.,	Minneapolis.
MASON, ALFRED F.,	St. Paul.
MERCER, HUGH V.,	Minneapolis.
PAIGE, JAMES,	Minneapolis.
PAUL, A. C.,	Minneapolis.
SANBORN, JOHN B.,	St. Paul.
STEVENS, HIRAM F.,	St. Paul.

## MINNESOTA.—Continued.

TIGHE, AMBROSE, . . . . .	St. Paul.
WHELAN, RALPH, . . . . .	Minneapolis.
YOUNG, GEORGE B., . . . . .	St. Paul.

## MISSISSIPPI.

BOWERS, E. J., . . . . .	Bay St. Louis.
HOWRY, CHARLES B. (Washington, D. C.), . . . . .	Oxford.
MONTGOMERY, M. A., . . . . .	Oxford.
SOMERVILLE, THOMAS H., . . . . .	University.
THOMPSON, R. H., . . . . .	Jackson.

## MISSOURI.

ALLEN, CHARLES CLAFLIN, . . . . .	St. Louis.
ASHLEY, HENRY D., . . . . .	Kansas City.
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BALL, R. E., . . . . .	Kansas City.
BARCLAY, SHEPARD, . . . . .	St. Louis.
BATES, CHARLES W., . . . . .	St. Louis.
BLAIR, ALBERT, . . . . .	St. Louis.
BLAIR, JAMES L., . . . . .	St. Louis.
BOYLE, WILBUR F., . . . . .	St. Louis.
BRYAN, P. TAYLOR, . . . . .	St. Louis.
CHARLES, BENJAMIN H., . . . . .	St. Louis.
CHRISTIE, HARVEY L., . . . . .	St. Louis.
CLARKE, ENOS, . . . . .	St. Louis.
COCHRAN, ALEXANDER G., . . . . .	St. Louis.
CURTIS, WILLIAM S., . . . . .	St. Louis.
DEAN, O. H., . . . . .	Kansas City.
DOBSON, CHARLES L., . . . . .	Kansas City.
DONALDSON, WILLIAM R., . . . . .	St. Louis.
DOUGLAS, WALTER B., . . . . .	St. Louis.
ELIOT, EDWARD C., . . . . .	St. Louis.
FINKELNBURG, G. A., . . . . .	St. Louis.
FISSE, WILLIAM E., . . . . .	St. Louis.
FOWLER, A. C., . . . . .	St. Louis.
GANTT, JAMES B., . . . . .	Jefferson City.
GIBSON, JAMES, . . . . .	Kansas City.
HAGERMAN, FRANK, . . . . .	Kansas City.
HAGERMAN, JAMES, . . . . .	St. Louis.
HARKLESS, JAMES H., . . . . .	Kansas City.
HITCHCOCK, HENRY, . . . . .	St. Louis.
HOLMES, DANIEL B., . . . . .	Kansas City.

## MISSOURI.—Continued.

JUDSON, FREDERICK N.,	St. Louis.
KARNES, J. V. C.,	Kansas City.
KEHR, EDWARD C.,	St. Louis.
KING, S. H.,	St. Louis.
KLEIN, JACOB,	St. Louis.
LADD, SANFORD B.,	Kansas City.
LATHROP, GARDINER,	Kansas City.
LAWSON, JOHN D.,	Columbia.
LEHMAN, FRED. W.,	St. Louis.
LIONBERGER, ISAAC H.,	St. Louis.
MADILL, GEORGE A.,	St. Louis.
MAJOR, SAMUEL C.,	Fayette.
MCKEIGHAN, JOHN E.,	St. Louis.
MCCLANE, JAMES A.,	Kansas City.
MCLEOD, W. D.,	Kansas City.
NAGEL, CHARLES,	St. Louis.
NEW, ALEXANDER,	Kansas City.
NOBLE, JOHN W.,	St. Louis.
OTTOFY, L. FRANK,	St. Louis.
PALMER, CLARENCE S.,	Kansas City.
PERRY, WILLIAM C.,	Kansas City.
PHILIPS, JOHN F.,	Kansas City.
PRATT, WALLACE,	Kansas City.
ROBERTSON, GEORGE,	Mexico.
ROBINSON, WALTOUR M.,	Jefferson City.
SEBREE, FRANK P.,	Kansas City.
SEBREE, GEORGE M.,	Springfield.
SHERWOOD, ADIEL,	St. Louis.
SPENCER, SELDEN P.,	St. Louis.
TAUSSIG, JAMES,	St. Louis.
THAYER, AMOS M.,	St. Louis.
THOMPSON, WILLIAM B.,	St. Louis.
TICHENOR, CHARLES O.,	Kansas City.
TITUS, FRANK,	Kansas City.
TRIMBLE, J. MCD.,	Kansas City.
WARD, CLARENCE C.,	St. Louis.
WARD, HUGH C.,	Kansas City.
WILFLEY, LEBBEUS M.,	St. Louis.
WITTHROW, JAMES E.,	St. Louis.
WOOD, JOHN M.,	St. Louis.
WURDEMAN, G. A.,	St. Louis.

## MONTANA.

COTTER, JOHN W., . . . . .	Butte.
DIXON, WILLIAM W., . . . . .	Butte.
SANDERS, JAMES U., . . . . .	Helena.
SANDERS, WILBUR F., . . . . .	Helena.
SCALLON, WILLIAM, . . . . .	Butte.

## NEBRASKA.

AMES, JOHN H., . . . . .	Lincoln.
BALDRIDGE, HOWARD H., . . . . .	Omaha.
BARTLETT, EDMUND M., . . . . .	Omaha.
BAXTER, IRVING F., . . . . .	Omaha.
BLACKBURN, THOMAS W., . . . . .	Omaha.
BRECKENRIDGE, RALPH W., . . . . .	Omaha.
BREEN, JOHN P., . . . . .	Omaha.
BROGAN, FRANCIS A., . . . . .	Omaha.
CORCORAN, GEORGE F., . . . . .	York.
COWIN, J. C., . . . . .	Omaha.
DEWESE, J. W., . . . . .	Lincoln.
DUNDEY, CHARLES L., . . . . .	Omaha.
ELGUTTER, CHARLES S., . . . . .	Omaha.
GEISTHARDT, STEPHEN L., . . . . .	Lincoln.
GREENE, CHARLES J., . . . . .	Omaha.
GREENE, ROBERT J., . . . . .	Lincoln.
HAINER, EUGENE J., . . . . .	Aurora.
HAINER, F. G., . . . . .	Kearney.
HALL, MATTHEW A., . . . . .	Omaha.
HARTIGAN, MICHEL A., . . . . .	Hastings.
HASTINGS, W. G., . . . . .	Wilbur.
HATFIELD, I. H., . . . . .	Lincoln.
HORTON, RICHARD S., . . . . .	Omaha.
KINKAID, M. P., . . . . .	O'Neill.
KRETSINGER, E. O., . . . . .	Beatrice.
LANGDON, MARTIN, . . . . .	Omaha.
LETTON, CHARLES B., . . . . .	Fairbury.
MAHONEY, TIMOTHY J., . . . . .	Omaha.
MANDERSON, CHARLES F., . . . . .	Omaha.
MARTIN, FRANCIS, . . . . .	Falls City.
MONTGOMERY, CARROLL S., . . . . .	Omaha.
MUNGER, W. H., . . . . .	Fremont.
McCANDLESS, A. D., . . . . .	Wymore.
McHUGH, WILLIAM D., . . . . .	Omaha.
McINTOSH, JAMES H., . . . . .	Omaha.
OGDEN, CHARLES, . . . . .	Omaha.

## NEBRASKA.—Continued.

O'NEILL, HARRY E.,	Omaha.
PATRICK, WILLIAM R.,	Papillion.
POUND, ROSCOE,	Lincoln.
PROUT, F. N.,	Lincoln.
RAPER, JOHN B.,	Pawnee City.
REAVIS, C. F.,	Falls City.
REESE, MANOAH B.,	Lincoln.
RICKETTS, ARNOT C.,	Lincoln.
ROBBINS, C. A.,	Lincoln.
SHEEAN, JAMES B.,	Omaha.
SLABAUGH, W. W.,	Omaha.
SMITH, HOWARD B.,	Omaha.
SMYTH, CONSTANTINE J.,	Omaha.
STUBBS, G. W.,	Superior.
THURSTON, JOHN M.,	Omaha.
WAKELEY, ARTHUR C.,	Omaha.
WAKELEY, ELEAZER,	Omaha.
WEST, JOEL W.,	Omaha.
WHITE, BENJAMIN T.,	Omaha.
WILSON, HENRY H.,	Lincoln.
WOODS, FRANK H.,	Lincoln.
WOOLLEY, JAMES H.,	Grand Island.
WOOLWORTH, JAMES M.,	Omaha.

## NEW HAMPSHIRE.

ALBIN, JOHN H.,	Concord.
BATCHELLOR, ALBERT S.,	Littleton.
BRANCH, OLIVER E.,	Manchester.
BURLEIGH, ALVIN,	Plymouth.
BURNHAM, HENRY E.,	Manchester.
BURNS, CHARLES H.,	Wilton.
CHASE, IRA A.,	Bristol.
COLBY, JAMES F.,	Hanover.
CROSS, DAVID,	Manchester.
EASTMAN, SAMUEL C.,	Concord.
FELLOWS, JOSEPH W.,	Manchester.
FRINK, J. S. H.,	Portsmouth.
STREETER, FRANK S.,	Concord.

## NEW JERSEY.

APPLEGATE, JOHN S.,	Red Bank.
BERGEN, JAMES J.,	Somerville.
BORCHERLING, CHARLES,	Newark.

## NEW JERSEY.—Continued.

CLEVENGER, WILLIAM M., . . . . .	Atlantic City.
COLIE, EDWARD M., . . . . .	Newark.
DICKINSON, S. MEREDITH, . . . . .	Trenton.
DUNN, MICHAEL, . . . . .	Paterson.
ELY, JOHN J., . . . . .	Freehold.
EMERY, JOHN R., . . . . .	Morristown.
FORT, J. FRANKLIN, . . . . .	Newark.
GARRETTSON, A. Q., . . . . .	Jersey City.
GOBLE, L. SPENCER, . . . . .	Newark.
GOODELL, EDWIN B., . . . . .	Montclair.
GRANT, ALEXANDER, JR., . . . . .	Newark.
GREY, SAMUEL H., . . . . .	Camden.
HAMILL, HUGH H., . . . . .	Trenton.
HARDIN, JOHN R., . . . . .	Newark.
HARTSHORNE, CHARLES H., . . . . .	Jersey City.
HUTCHINSON, BARTON B., . . . . .	Trenton.
KEASBEY, EDWARD Q., . . . . .	Newark.
LANNING, WILLIAM M., . . . . .	Trenton.
LYON, ADRIAN, . . . . .	Perth Amboy.
MCCARTER, ROBERT H., . . . . .	Newark.
PARKER, CORTLANDT, . . . . .	Newark.
PARKER, FREDERICK, . . . . .	Freehold.
PARKER, R. WAYNE, . . . . .	Newark.
PINTARD, WILLIAM, . . . . .	Red Bank.
RIKER, ADRIAN, . . . . .	Newark.
SHIPMAN, GEORGE M., . . . . .	Belvidere.
STRONG, ALAN H., . . . . .	New Brunswick.
SWAYZE, FRANCIS J., . . . . .	Newark.
TERRELL, WILLIAM J., . . . . .	Burlington.
VEOOM, GARRET D. W., . . . . .	Trenton.
WEART, SPENCER, . . . . .	Jersey City.
WILSON, WOODROW, . . . . .	Princeton.
WOODRUFF, ROBERT S., . . . . .	Trenton.

## NEW MEXICO.

CATRON, THOMAS B., . . . . .	Santa Fé.
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## NEW YORK.

ABBOTT, EVERETT V., . . . . .	New York.
ASHLEY, CLARENCE D., . . . . .	New York.
AUB, THEODORE, . . . . .	New York.
BACON, SELDEN, . . . . .	New York.

## NEW YORK.—Continued.

BARTLETT, JOHN P., . . . . .	New York.
BELL, CLARK, . . . . .	New York.
BENEDICT, ROBERT D., . . . . .	New York.
BINNEY, HAROLD, . . . . .	New York.
BISCHOFF, HENRY, JR., . . . . .	New York.
BROWN, ADDISON, . . . . .	New York.
BRUNO, RICHARDS M., . . . . .	New York.
BUCHANAN, CHARLES J., . . . . .	Albany.
BURDICK, FRANCIS M., . . . . .	New York.
BURR, CHARLES L., . . . . .	New York.
BUTLER, CHARLES HENRY, . . . . .	New York.
BUTLER, WILLIAM ALLEN, . . . . .	New York.
BUTLER, WILLIAM ALLEN, JR., . . . . .	New York.
BUTTON, WILLIAM H., . . . . .	New York.
BYRNE, JAMES, . . . . .	New York.
CALLAGHAN, ALEXANDER J. A., . . . . .	New York.
CARPENTER, JAMES E., . . . . .	New York.
CARTER, JAMES C., . . . . .	New York.
CARTER, WALTER S., . . . . .	New York.
CHASE, GEORGE, . . . . .	New York.
CHOATE, JOSEPH H., . . . . .	New York.
CLARK, MARTIN, . . . . .	Buffalo.
COCKRAN, W. BOURKE, . . . . .	New York.
COLLIER, M. DWIGHT, . . . . .	New York.
COOK, WILLIAM W., . . . . .	New York.
CUNNEEN, JOHN, . . . . .	Buffalo.
DANAHEB, FRANKLIN M., . . . . .	Albany.
DAVIES, JULIAN T., . . . . .	New York.
DAVIES, WILLIAM GILBERT, . . . . .	New York.
DAVIS, VERNON M., . . . . .	New York.
DEERING, JAMES A., . . . . .	New York.
DENISON, HOWARD P., . . . . .	Syracuse.
DEPEW, CHAUNCEY M., . . . . .	New York.
DIKE, NORMAN S., . . . . .	New York.
DILLON, JOHN F., . . . . .	New York.
DOS PASSOS, JOHN R., . . . . .	New York.
DOTY, SPENCER C., . . . . .	New York.
DOUGHERTY, J. HAMPDEN, . . . . .	New York.
DOYLE, LOUIS F., . . . . .	New York.
DUELL, CHARLES H., . . . . .	New York.
DUTTON, JOHN A., . . . . .	New York.
DYER, RICHARD N., . . . . .	New York.
EWING, HAMPTON D., . . . . .	Yonkers.

## NEW YORK.—Continued.

FEARONS, GEORGE H., . . . . .	New York.
FIERO, J. NEWTON, . . . . .	Albany.
FLEISCHMANN, SIMON, . . . . .	Buffalo.
FORBES, FRANCIS, . . . . .	New York.
FOSTER, ROGER, . . . . .	New York.
FOX, AUSTEN G., . . . . .	New York.
GARLAND, DAVID S., . . . . .	Northport.
GIBBS, CLINTON B., . . . . .	Buffalo.
GIFFORD, LIVINGSTON, . . . . .	New York.
GILLEN, WILLIAM W., . . . . .	Jamaica.
GLEASON, JOHN H., . . . . .	Albany.
GOODELLE, WILLIAM P., . . . . .	Syracuse.
GRINNELL, W. MORTON, . . . . .	New York.
GRIGGS, JOHN W., . . . . .	New York.
GUTHRIE, WILLIAM D., . . . . .	New York.
HAWES, GILBERT RAY, . . . . .	New York.
HAWKESWORTH, R. W., . . . . .	New York.
HEERMANCE, MARTIN, . . . . .	Poughkeepsie.
HERENDEN, EDWARD G., . . . . .	Elmira.
HOADLEY, GEORGE, . . . . .	New York.
HORNBLOWER, WILLIAM B., . . . . .	New York.
HOTCHKISS, WILLIAM HORACE, . . . . .	Buffalo.
HOYE, STEPHEN M., . . . . .	Brooklyn.
HUBBARD, HARRY, . . . . .	New York.
HUBBARD, THOMAS H., . . . . .	New York.
HUFFCUT, E. W., . . . . .	Ithaca.
HUGHES, CHARLES E., . . . . .	New York.
HULL, GEORGE S., . . . . .	Buffalo.
INGALSBE, GRENVILLE M., . . . . .	Sandy Hill.
IRVINE, FRANK, . . . . .	Ithaca.
ISAACS, M. S., . . . . .	New York.
JACOB, EPHRAIM A., . . . . .	New York.
JELLINEK, EDWARD L., . . . . .	Buffalo.
JOHNSTON, THOMAS J., . . . . .	New York.
JOLINE, ADRIAN H., . . . . .	New York.
JONES, W. MARTIN, . . . . .	Rochester.
KEENER, WILLIAM A., . . . . .	New York.
KELLOGG, L. LAFLIN, . . . . .	New York.
KENYON, WILLIAM H., . . . . .	New York.
KIDDLE, ALFRED W., . . . . .	New York.
KILVERT, THOMAS, . . . . .	New York.
KIRLIN, J. PARKER, . . . . .	New York.
KLOCK, GEORGE S., . . . . .	Utica.



## NEW YORK.—Continued.

KNOX, CHARLES H.,	New York.
LAMBERTON, C. L.,	New York.
LEAVITT, JOHN BROOKS,	New York.
LEVIS, HOWARD C.,	Schenectady.
LINDSAY, WILLIAM,	New York.
LOGAN, WALTER S.,	New York.
MACFARLAND, W. W.,	New York.
MILBURN, JOHN G.,	Buffalo.
MILLER, PEYTON F.,	Albany.
MILLER, W. W.,	New York.
MILNOR, M. CLEILAND,	New York.
MITCHELL, CHARLES E.,	New York.
MOORE, JOHN BASSETT,	New York.
MOOT, ADELBERT,	Buffalo.
MORSE, WALDO G.,	New York.
MOSES, RAPHAEL J.,	New York.
MYERS, NATHANIEL,	New York.
MCCOOK, JOHN J.,	New York.
MCCRARY, A. J.,	Binghamton.
MCKINNEY, WILLIAM M.,	Northport.
MCLEAN, DONALD,	New York.
M McNULTY, WILLIAM D. (New York, N. Y.),	Saratoga Springs.
NICHOLS, GEORGE L.,	New York.
NICOLSON, JOHN, JR.,	New York.
NORTON, CHARLES P.,	Buffalo.
OPDYKE, WILLIAM S.,	New York.
ORDRONAUX, JOHN,	New York.
OSGOOD, HOWARD L.,	Rochester.
PARKER, ALTON B.,	Kingston.
PARMENTER, ROSWELL A.,	Troy.
PARSONS, HINS DILL,	Schenectady.
PERHAM, FREDERIC E.,	New York.
PETTY, ROBERT D.,	New York.
PIERCE, WINSLOW S.,	New York.
POTTER, FREDERICK,	New York.
PRIME, RALPH E.,	Yonkers.
PUTNAM, HARRINGTON,	New York.
QUACKENBUSH, JAMES L.,	Buffalo.
REDDING, JOSEPH D.,	New York.
REDDING, WILLIAM A.,	New York.
REEVES, ALFRED G.,	New York.
RICH, BURDETTE A.,	Rochester.
ROOT, ELIHU,	New York.

## NEW YORK.—Continued.

RUSSELL, ISAAC F.,	New York.
SCOTT, JAMES L.,	Saratoga Springs.
SEYMOUR, HENRY H.,	Buffalo.
SHACK, FERDINAND,	New York.
SMITH, NELSON,	New York.
SMITH, SIDNEY,	New York.
SPEIR, GILBERT M.,	New York.
STETSON, FRANCIS LYNDE,	New York.
STILLMAN, THOMAS E.,	New York.
SUMNER, EDWARD A.,	New York.
TAGGART, RUSH,	New York.
TAYLOR, JOHN D.,	New York.
THOMPSON, SEYMOUR D.,	New York.
TOMPKINS, HAMILTON B.,	New York.
TREMAIN, HENRY E.,	New York.
TURNER, HERBERT B.,	New York.
VANAMEE, WILLIAM,	Newburgh.
VAN SLYCK, GEORGE F.,	New York.
VAN SLYCK, GEORGE W.,	New York.
VAN VECHTEN, A. V. W.,	New York.
VIEU, HENRY A.,	New York.
VILLARD, HAROLD G.,	New York.
WADHAMS, FREDERICK E.,	Albany.
WALKER, ALBERT H.,	New York.
WARD, HAMILTON,	Buffalo.
WARD, HENRY GALBRAITH,	New York.
WARNER, GEORGE COFFING,	New York.
WARNER, JOHN DEWITT,	New York.
WEEKS, WILLIAM R.,	New York.
WETMORE, EDMUND,	New York.
WHEELER, EVERETT P.,	New York.
WHITTAKER, EGBERT,	Saugerties.
WILCOX, ANSLEY,	Buffalo.
WILCOX, DAVID,	New York.
WING, HENRY T.,	New York.
WISE, JOHN S.,	New York.
WOLLMAN, HENRY,	New York.

## NORTH CAROLINA.

BIGGS, J. CRAWFORD,	Durham.
BRIDGERS, JOHN L.,	Tarboro.
BUEBEE, FABIVS H.,	Raleigh.
BUXTON, J. C.,	Winston.

## NORTH CAROLINA.—Continued.

CLEMENT, L. H.,	Salisbury.
HILL, THOMAS N.,	Halifax.
PATTERSON, LINDSAY,	Winston.
PRUDEN, WILLIAM D.,	Edenton.
WALKER, P. D.,	Charlotte.

## NORTH DAKOTA.

AUSTIN, JAMES M.,	Ellendale.
BOSARD, JAMES H.,	Grand Forks.
SPALDING, BURLEIGH FOLSOM,	Fargo.

## OHIO.

ANDERSON, JAMES H.,	Columbus.
BLACKFORD, AARON,	Findlay.
BOWLER, ROBERT B.,	Cincinnati.
BRICE, HERBERT L.,	Lima.
BURKET, HARLAN F.,	Findlay.
BURKET, JACOB F.,	Findlay.
BURROWS, J. B.,	Painesville.
BUSHNELL, T. H.,	Cleveland.
CADWELL, JAMES P.,	Jefferson.
CALHOUN, PAT.,	Cleveland.
CARR, WILLIAM F.,	Cleveland.
CLARKE, JOHN H.,	Cleveland.
COLLINS, JAMES H.,	Columbus.
COLSTON, EDWARD,	Cincinnati.
COOK, E. S.,	Cleveland.
CUSHING, WILLIAM E.,	Cleveland.
DEMPSEY, JAMES H.,	Cleveland.
DICKMAN, FRANKLIN J.,	Cleveland.
DOYLE, JOHN H.,	Toledo.
DURBAN, FRANK A.,	Zanesville.
FERGUSON, E. A.,	Cincinnati.
FERRIS, AARON A.,	Cincinnati.
FOLLETT, ALFRED DEWEY,	Marietta.
FOLLETT, MARTIN DEWEY,	Marietta.
FULLER, CLIFFORD W.,	Cleveland.
GARFIELD, HARRY A.,	Cleveland.
GARFIELD, JAMES R.,	Cleveland.
GEDDES, FREDERICK L.,	Toledo.
GOFF, FREDERICK H.,	Cleveland.
GOULDER, HARVEY D.,	Cleveland.
GRANGER, MOSES M.,	Zanesville.

## OHIO.—Continued.

GRANGER, SHERMAN M., . . . . .	Zanesville.
GUNCKEL, LEWIS B., . . . . .	Dayton.
HADDEN, ALEXANDER, . . . . .	Cleveland.
HARMON, JUDSON, . . . . .	Cincinnati.
HARPER, JACOB CHANDLER, . . . . .	Cincinnati.
HARRIS, STEPHEN R., . . . . .	Bucyrus.
HARRISON, RICHARD A., . . . . .	Columbus.
HENDERSON, JOHN M., . . . . .	Cleveland.
HEPBURN, CHARLES M., . . . . .	Cincinnati.
HINES, CLARK B., . . . . .	Bellville.
HOADLEY, GEORGE, JR., . . . . .	Cincinnati.
HOPKINS, E. H., . . . . .	Cleveland.
HOWLAND, PAUL, . . . . .	Cleveland.
HOYT, JAMES H., . . . . .	Cleveland.
HUNT, CHARLES J., . . . . .	Cincinnati.
HUNT, SAMUEL F., . . . . .	Cincinnati.
JACKSON, WILLIAM H., . . . . .	Cincinnati.
JAHN, CARL G., . . . . .	Columbus.
JAMES, FRANCIS B., . . . . .	Cincinnati.
JELKE, FERDINAND, JR., . . . . .	Cincinnati.
JOHNSON, HOMER H., . . . . .	Cleveland.
JOHNSON, SIMEON M., . . . . .	Cincinnati.
JONES, ASAHEL W., . . . . .	Youngstown.
JONES, JAMES M., . . . . .	Cleveland.
JONES, RANKIN D., . . . . .	Cincinnati.
JOSEPH, EMIL, . . . . .	Cleveland.
KENNON, NEWELL K., . . . . .	St. Clairsville.
KLINE, VIRGIL P., . . . . .	Cleveland.
LAWRENCE, JAMES, . . . . .	Cleveland.
LEWENTHAL, A., . . . . .	Cleveland.
MACKOY, WILLIAM H., . . . . .	Cincinnati.
MATTHEWS, C. BENTLEY, . . . . .	Cincinnati.
MAXWELL, LAWRENCE, JR., . . . . .	Cincinnati.
McMAHON, J. SPRIGG, . . . . .	Dayton.
NORRIS, MYRON A., . . . . .	Youngstown.
PARKER, ROBERT S., . . . . .	Bowling Green.
PATTERSON, M. R., . . . . .	Columbus.
PECK, HIRAM D., . . . . .	Cincinnati.
QUAIL, FRANK A., . . . . .	Cleveland.
RANDALL, E. O., . . . . .	Columbus.
RANNEY, HENRY C., . . . . .	Cleveland.
ROBERTSON, C. D., . . . . .	Cincinnati.
SALTZGABER, GAYLARD M., . . . . .	Van Wert.

## OHIO.—Continued.

SANDERS, W. B., . . . . .	Cleveland.
SAYLER, JOHN RYNER, . . . . .	Cincinnati.
SENEY, HENRY W., . . . . .	Toledo.
SHAW, R. K., . . . . .	Marietta.
SMEDEE, JOHN MARSHALL, . . . . .	Cincinnati.
SMITH, ALEXANDER L., . . . . .	Toledo.
SMITH, RUFUS B., . . . . .	Cincinnati.
SPEAR, WILLIAM T., . . . . .	Columbus.
SQUIRE, ANDREW, . . . . .	Cleveland.
STEWART, GILBERT H., . . . . .	Columbus.
STOEHR, OSCAR, . . . . .	Cincinnati.
STRONG, EDWARD W., . . . . .	Cincinnati.
SWAYNE, FRANCIS B. (New York, N. Y.), . . . . .	Toledo.
TAFT, WILLIAM H., . . . . .	Cincinnati.
TALCOTT, WILLIAM E., . . . . .	Cleveland.
TOLLES, SHIRLEY H., . . . . .	Cleveland.
TROUP, JAMES O., . . . . .	Bowling Green.
WALD, GUSTAVUS H., . . . . .	Cincinnati.
WARRINGTON, JOHN W., . . . . .	Cincinnati.
WHEELER, SETH S., . . . . .	Lima.
WILLIAMSON, SAMUEL E., . . . . .	Cleveland.
WORTHINGTON, WILLIAM, . . . . .	Cincinnati.
YOUNG, GEORGE R., . . . . .	Dayton.

## OKLAHOMA TERRITORY.

ASP, HENRY E., . . . . .	Guthrie.
HAINER, BAYARD T., . . . . .	Perry.

## OREGON.

BEAN, R. S., . . . . .	Salem.
CAREY, CHARLES H., . . . . .	Portland.
MOORE, F. A., . . . . .	Salem.
SCHNABEL, CHARLES J., . . . . .	Portland.

## PENNSYLVANIA.

ANDRE, JOHN K., . . . . .	Philadelphia.
ASHHURST, RICHARD L., . . . . .	Philadelphia.
BAER, GEORGE F., . . . . .	Reading.
BAYARD, JAMES WILSON, . . . . .	Philadelphia.
BECK, JAMES M., . . . . .	Philadelphia.
BEDFORD, J. CLAUDE, . . . . .	Philadelphia.
BEEBER, DIMNER, . . . . .	Philadelphia.

## PENNSYLVANIA.—Continued.

BERTOLETTE, FREDERICK, . . . . .	Mauch Chunk.
BIRPHAM, GEORGE TUCKER, . . . . .	Philadelphia.
BRIGHTLY, F. F., . . . . .	Philadelphia.
BROWN, FRANCIS SHUNK, . . . . .	Philadelphia.
BROWN, J. HAY, . . . . .	Lancaster.
BROWN, JOHN A., . . . . .	Philadelphia.
BROWN, JOHN DOUGLASS, JR., . . . . .	Philadelphia.
BUCHER, JOSEPH C., . . . . .	Lewisburg.
BUDD, HENRY, . . . . .	Philadelphia.
BURNETT, WILLIAM H., . . . . .	Philadelphia.
CARSON, HAMPTON L., . . . . .	Philadelphia.
CHAMBERS, FRANCIS T., . . . . .	Philadelphia.
CHRISTY, GEORGE H., . . . . .	Pittsburg.
CUYLER, THOMAS DEWITT, . . . . .	Philadelphia.
DALE, RICHARD C., . . . . .	Philadelphia.
DANA, SAMUEL W., . . . . .	New Castle.
DICKSON, SAMUEL, . . . . .	Philadelphia.
DUANE, RUSSELL, . . . . .	Philadelphia.
FENTON, HECTOR T., . . . . .	Philadelphia.
FISHER, WILLIAM RIGHTER, . . . . .	Philadelphia.
FOX, E. J., . . . . .	Easton.
FRALEY, JOSEPH C., . . . . .	Philadelphia.
GEYELIN, HENRY LAUSSAT, . . . . .	Philadelphia.
GILBERT, LYMAN D., . . . . .	Harrisburg.
GIVEN, WILLIAM P., . . . . .	Columbia.
GRAHAM, GEORGE S., . . . . .	Philadelphia.
GREEN, BENJAMIN W., . . . . .	Emporium.
GRIFFITH, WARREN G., . . . . .	Philadelphia.
GUTHRIE, GEORGE W., . . . . .	Pittsburg.
HALL, WILLIAM M., JR., . . . . .	Pittsburg.
HAMMOND, W. S., . . . . .	Altoona.
HARGEST, WILLIAM M., . . . . .	Harrisburg.
HARRITY, WILLIAM F., . . . . .	Philadelphia.
HEMPHILL, JOSEPH, . . . . .	West Chester.
HENSEL, W. U., . . . . .	Lancaster.
HIRSTER, ISAAC, . . . . .	Reading.
HOWSON, CHARLES, . . . . .	Philadelphia.
HUEY, SAMUEL B., . . . . .	Philadelphia.
HUNTER, ERNEST HOWARD, . . . . .	Philadelphia.
JAYNE, H. LABARRE, . . . . .	Philadelphia.
JONES, J. LEVERING, . . . . .	Philadelphia.
JONES, RICHMOND L., . . . . .	Reading.
KAY, JAMES I., . . . . .	Pittsburg.

## PENNSYLVANIA.—Continued.

KEATOR, JOHN F., . . . . .	Philadelphia.
KNOX, P. C., . . . . .	Pittsburg.
KULP, GEORGE B., . . . . .	Wilkesbarre.
LANCASTER, JOSEPH CAMPBELL, . . . . .	Philadelphia.
LANDIS, CHARLES J., . . . . .	Lancaster.
LEAR, HENRY, . . . . .	Doylestown.
LENAHAN, JOHN T., . . . . .	Wilkesbarre.
LEWIS, FRANCIS D., . . . . .	Philadelphia.
LEWIS, W. DRAPER, . . . . .	Philadelphia.
LOGAN, JAMES A., . . . . .	Philadelphia.
MAFFETT, JAMES T., . . . . .	Clarion.
MARTIN, J. WILLIS, . . . . .	Philadelphia.
MERCER, GEORGE GLUYAS, . . . . .	Philadelphia.
MERCUR, RODNEY A., . . . . .	Towanda.
MERVINE, NICHOLAS P., . . . . .	Altoona.
MESTREZAT, S. LESLIE, . . . . .	Uniontown.
MILLER, E. SPENCER, . . . . .	Philadelphia.
MILLER, N. DUBOIS, . . . . .	Philadelphia.
MORGAN, CHARLES E., JR., . . . . .	Philadelphia.
MORGAN, RANDAL, . . . . .	Philadelphia.
MUHLENBERG, HENRY A., . . . . .	Reading.
MULLIN, EUGENE, . . . . .	Bradford City.
MUNSON, C. LARUE, . . . . .	Williamsport.
MCCLINTOCK, ANDREW H., . . . . .	Wilkesbarre.
MCCLUNG, WM. H., . . . . .	Pittsburg.
MCCLURE, HARROLD M., . . . . .	Lewisburg.
MCCORMICK, HENRY C., . . . . .	Williamsport.
NICHOLS, H. S. P., . . . . .	Philadelphia.
NILES, HENRY C., . . . . .	York.
NORTH, E. D., . . . . .	Lancaster.
NORTH, HUGH M., . . . . .	Columbia.
PALMER, HENRY W., . . . . .	Wilkesbarre.
PATTERSON, GEORGE S., . . . . .	Philadelphia.
PATTERSON, ROSWELL H., . . . . .	Scranton.
PATTERSON, T. ELLIOTT, . . . . .	Philadelphia.
PATTERSON, THOMAS, . . . . .	Pittsburg.
PEALE, S. R., . . . . .	Lock Haven.
PENNYPACKER, CHARLES H., . . . . .	West Chester.
PENNYPACKER, SAMUEL W., . . . . .	Philadelphia.
PEPPER, GEORGE WHARTON, . . . . .	Philadelphia.
PERKINS, SAMUEL C., . . . . .	Philadelphia.
PETTIT, HOBACE, . . . . .	Philadelphia.
PRICHARD, FRANK P., . . . . .	Philadelphia.

## PENNSYLVANIA.—Continued.

RAWLE, FRANCIS, . . . . .	Philadelphia.
REARDON, JOHN J., . . . . .	Williamsport.
RYON, WILLIAM W., . . . . .	Shamokin.
SEIBERT, WILLIAM N., . . . . .	New Bloomfield.
SHAPLEY, RUFUS E., . . . . .	Philadelphia.
SHIELDS, J. M., . . . . .	Pittsburg.
SHIRAS, GEORGE, JR., . . . . .	Pittsburg.
SIMPSON, ALEXANDER, JR., . . . . .	Philadelphia.
SMEAD, A. D. B., . . . . .	Carlisle.
SMITH, WALTER GEORGE, . . . . .	Philadelphia.
SNARE, JACOB, . . . . .	Philadelphia.
STAAKE, WILLIAM H., . . . . .	Philadelphia.
STEELE, HENRY J., . . . . .	Easton.
STERRETT, JAMES R., . . . . .	Pittsburg.
STEWART, W. F. BAY, . . . . .	York.
STILLWELL, JAMES C., . . . . .	Philadelphia.
STOEVER, WILLIAM C., . . . . .	Philadelphia.
STOUGHTON, A. B., . . . . .	Philadelphia.
STRAWBRIDGE, WILLIAM C., . . . . .	Philadelphia.
SULZBERGER, MAYER, . . . . .	Philadelphia.
SWAIN, CHARLES M., . . . . .	Philadelphia.
TAYLOR, JOSEPH T., . . . . .	Philadelphia.
TODD, M. HAMPTON, . . . . .	Philadelphia.
TOWNSEND, CHARLES C., . . . . .	Philadelphia.
TRICKETT, WILLIAM, . . . . .	Carlisle.
VON MOSCHISKE, ROBERT, . . . . .	Philadelphia.
WALKER, ROBERT J. C., . . . . .	Philadelphia.
WALTON, HENRY F., . . . . .	Philadelphia.
WATSON, D. T., . . . . .	Pittsburg.
WATTERSON, A. V. D., . . . . .	Pittsburg.
WEAVER, JOHN, . . . . .	Philadelphia.
WEIL, A. LEO, . . . . .	Pittsburg.
WEISER, J. G., . . . . .	Middleburg.
WILCOX, WILLIAM A., . . . . .	Scranton.
WILLARD, EDWARD N., . . . . .	Scranton.
WINDLE, WILLIAM S., . . . . .	West Chester.
WINTERNITZ, BENJAMIN A., . . . . .	New Castle.
WISE, JESSE H., . . . . .	Pittsburg.
WOLVERTON, SIMON P., . . . . .	Sunbury.
WORK, JAMES C., . . . . .	Uniontown.

## RHODE ISLAND.

ANGELL, WALTER F., . . . . .	Providence.
BAKER, ALBERT A., . . . . .	Providence.



## RHODE ISLAND.—Continued.

BAKER, DARIUS, . . . . .	Newport.
CURTIS, HARRY C., . . . . .	Providence.
EATON, AMASA M., . . . . .	Providence.
HOGAN, JOHN W., . . . . .	Providence.
JENCKES, THOMAS A., . . . . .	Providence.
MILLER, AUGUSTUS S., . . . . .	Providence.
POTTER, DEXTER B., . . . . .	Providence.
ROELKER, WILLIAM G., . . . . .	Providence.
STEARNS, CHARLES F., . . . . .	Providence.
STINES, JOHN H., . . . . .	Providence.
THURSTON, WILMARTH H., . . . . .	Providence.
TILLINGHAST, JAMES, . . . . .	Providence.
WOODS, JOHN CARTER BROWN, . . . . .	Providence.

## SOUTH CAROLINA.

BUIST, GEORGE LAMB, . . . . .	Charleston.
BUIST, HENRY, . . . . .	Charleston.
JOHNSTONE, GEORGE, . . . . .	Newberry.
MORDECAI, T. MOULTRIE, . . . . .	Charleston.
SMYTHE, AUGUSTINE T., . . . . .	Charleston.
WOODS, CHARLES A., . . . . .	Marion.
YOUNG, HENRY E., . . . . .	Charleston.

## SOUTH DAKOTA.

AIKENS, FRANK R., . . . . .	Sioux Falls.
BAILEY, CHARLES O., . . . . .	Sioux Falls.
CRAWFORD, COE I., . . . . .	Huron.
TRIPP, BARTLETT, . . . . .	Yankton.
VOORHEES, JOHN H., . . . . .	Sioux Falls.
WELLS, ROLLIN J., . . . . .	Sioux Falls.

## TENNESSEE.

BAXTER, ED., . . . . .	Nashville.
BAXTER, E. J., . . . . .	Jonesboro.
BONNER, J. W., . . . . .	Nashville.
BRADFORD, J. C., . . . . .	Nashville.
CAMP, E. C., . . . . .	Knoxville.
CAMPBELL, LEMUEL R., . . . . .	Nashville.
CARROLL, WILLIAM H., . . . . .	Memphis.
COOPER, EDMUND, . . . . .	Shelbyville.
GILLHAM, GEORGE, . . . . .	Memphis.

## TENNESSEE.—Continued.

HEISKELL, F. H., . . . . .	Memphis.
INGERSOLL, HENRY H., . . . . .	Knoxville.
JACKSON, ROBERT F., . . . . .	Nashville.
LEA, OVERTON, . . . . .	Nashville.
LINDSEY, H. B., . . . . .	Knoxville.
MALONE, JAMES H., . . . . .	Memphis.
MALONE, THOS. H., . . . . .	Nashville.
MARKS, ALBERT D., . . . . .	Nashville.
PILCHER, JAMES S., . . . . .	Nashville.
RAMAGE, B. J., . . . . .	Sewanee.
REGERS, JESSE L., . . . . .	Knoxville.
ROSEBROUGH, W. S., . . . . .	Memphis.
SANFORD, EDWARD T., . . . . .	Knoxville.
SWANEY, W. B., . . . . .	Chattanooga.
TILLMAN, A. M., . . . . .	Nashville.
VAN DEVENTER, HORACE, . . . . .	Knoxville.
VERTREES, J. J., . . . . .	Nashville.
YOUNG, DAVID K., . . . . .	Clinton.

## TEXAS.

ALEXANDER, L. C., . . . . .	Waco.
AUTBY, JAMES L., . . . . .	Corsicana.
BURGES, WILLIAM H., . . . . .	El Paso.
CARLOCK, R. L., . . . . .	Fort Worth.
CLARK, WILLIAM H., . . . . .	Dallas.
COKE, HENRY C., . . . . .	Dallas.
DILLARD, F. C., . . . . .	Sherman.
DUFF, R. C., . . . . .	Beaumont.
EDWARDS, PEYTON F., . . . . .	El Paso.
GAINES, R. R., . . . . .	Austin.
GOULD, GEORGE H., . . . . .	Palestine.
GOULD, ROBERT S., . . . . .	Austin.
KEMP, WYNDHAM, . . . . .	El Paso.
LINDSLEY, PHILIP, . . . . .	Dallas.
MILLER, T. S., . . . . .	Dallas.
PARKER, JOHN W., . . . . .	Taylor.
SAMUELS, SIDNEY L., . . . . .	Fort Worth.
SMITH, ROBERT WAVERLEY, . . . . .	Galveston.
SPOONB, M. A., . . . . .	Fort Worth.
TERRY, J. W., . . . . .	Galveston.
WALTHALL, A. M., . . . . .	El Paso.
WEST, ROBERT G., . . . . .	Austin.

## UTAH.

CRITCHLOW, EDWARD B., . . . . .	Salt Lake City.
KINNEY, CLESON S., . . . . .	Salt Lake City.
SHEPARD, RICHARD B., . . . . .	Salt Lake City.
VARIAN, CHARLES S., . . . . .	Salt Lake City.
WILLIAMS, P. L., . . . . .	Salt Lake City.

## VERMONT.

BARBER, O. M., . . . . .	Bennington.
BUTTON, FREDERICK H., . . . . .	Rutland.
McCULLOUGH, JOHN G., . . . . .	No. Bennington.
TAFT, ELIHU B., . . . . .	Burlington.

## VIRGINIA.

ANDERSON, WILLIAM A., . . . . .	Lexington.
BYRON, GEORGE, . . . . .	Richmond.
CABELL, JAMES ALSTON, . . . . .	Richmond.
CATON, JAMES R., . . . . .	Alexandria.
COKE, JOHN A., . . . . .	Richmond.
GARNETT, THEODORE S., . . . . .	Norfolk.
GILLIAM, MARSHALL M., . . . . .	Richmond.
GILMORE, JAMES H., . . . . .	Marion.
GLASGOW, WILLIAM A., JR., . . . . .	Roanoke.
GRAVES, CHARLES A., . . . . .	Charlottesville.
GREGORY, ROGER, . . . . .	Richmond.
GRIFFIN, S., . . . . .	Bedford City.
GRINNAN, DANIEL, . . . . .	Richmond.
GUY, JACKSON, . . . . .	Richmond.
HAMILTON, ALEXANDER, . . . . .	Petersburg.
HATTON, GOODRICH, . . . . .	Portsmouth.
HUGHES, ROBERT M., . . . . .	Norfolk.
LEWIS, LUNSFORD L., . . . . .	Richmond.
MINOR, RALEIGH COLSTON, . . . . .	Charlottesville.
MUNFORD, BEVERLEY B., . . . . .	Richmond.
McINTOSH, J. R., . . . . .	Richmond.
PAGE, ROSEWELL, . . . . .	Richmond.
PATTESON, S. S. P., . . . . .	Richmond.
PICKRELL, JOHN, . . . . .	Richmond.
PRENTIS, ROBERT R., . . . . .	Suffolk.
ROBERTSON, WILLIAM GORDON, . . . . .	Roanoke.
SEATON, EMMETT, . . . . .	Richmond.
SMITH, WILLIS B., . . . . .	Richmond.

## VIRGINIA.—Continued.

THOM, ALFRED P.,	Norfolk.
TOWNES, WILLIAM A.,	Richmond.
TUCKER, HENRY ST. GEORGE,	Lexington.
WATTS, LEIGH R.,	Portsmouth.
WILLIAMS, CHARLES U.,	Richmond.
WILLIAMS, E. RANDOLPH,	Richmond.

## WASHINGTON.

FORSTER, GEORGE M.,	Spokane.
HANFORD, C. H.,	Seattle.
HUGHES, E. C.,	Seattle.
SHEPARD, CHARLES E.,	Seattle.

## WEST VIRGINIA.

AMBLER, B. MASON,	Parkersburg.
ARCHER, V. B.,	Parkersburg.
HIGGINBOTHAM, C. C.,	Buckhannon.
HUBBARD, WILLIAM P.,	Wheeling.
HUTCHINSON, JOHN F.,	Parkersburg.
MERRICK, CHARLES D.,	Parkersburg.
PRICE, GEORGE E.,	Charleston.
TURNER, SMITH D.,	Parkersburg.
VAN WINKLE, W. W.,	Parkersburg.

## WISCONSIN.

BARBER, CHARLES,	Oshkosh.
BARBER, F. J.,	Oshkosh.
BARNES, LYMAN E.,	Appleton.
BARTLETT, WILLIAM PITT,	Eau Claire.
BASHFORD, R. M.,	Madison.
BOTTUM, E. H.,	Milwaukee.
BRUCE, ANDREW A.,	Madison.
BURKE, JOHN F.,	Milwaukee.
BURNELL, GEORGE W.,	Oshkosh.
CARY, ALFRED L.,	Milwaukee.
FAIRCHILD, H. O.,	Green Bay.
FLANDERS, JAMES G.,	Milwaukee.
FRAWLEY, THOMAS F.,	Eau Claire.
FROST, EDWARD W.,	Milwaukee.
GILSON, N. S.,	Fond du Lac.
GRACE, H. H.,	West Superior.

## WISCONSIN.—Continued.

GREENE, GEORGE G.,	Green Bay.
HANSEN, OTTO R.,	Milwaukee.
HUNTER, CHARLES F.,	Milwaukee.
JEFFRIES, MALCOLM G.,	Janeville.
JENKINS, JAMES G.,	Milwaukee.
JONES, BURE W.,	Madison.
KERWIN, J. C.,	Neenah.
LEWIS, H. M.,	Madison.
LUDWIG, JOHN C.,	Milwaukee.
MILLER, B. K.,	Milwaukee.
MILLER, GEORGE P.,	Milwaukee.
MORRIS, HOWARD,	Milwaukee.
OGDEN, LEWIS M.,	Milwaukee.
ORTON, PHILO A.,	Darlington.
PERELES, JAMES M.,	Milwaukee.
PERELES, THOMAS JEFFERSON,	Milwaukee.
QUARLES, CHARLES,	Milwaukee.
QUARLES, JOSEPH V.,	Milwaukee.
SEAMAN, WILLIAM H.,	Sheboygan.
SIEBECKER, ROBERT G.,	Madison.
SMITH, HOWARD L.,	Madison.
SPOONER, CHARLES P.,	Milwaukee.
SPOONER, JOHN C.,	Madison.
STAFFORD, W. H.,	Chippewa Falls.
STARK, JOSHUA,	Milwaukee.
STEVENS, BREEZE J.,	Madison.
TENNEY, DANIEL K.,	Madison.
THOMPSON, A. E.,	Oshkosh.
TURNER, W. J.,	Milwaukee.
VAN DYKE, GEORGE D.,	Milwaukee.
VAN DYKE, WILLIAM D.,	Milwaukee.
VILAS, EDWARD P.,	Milwaukee.
WEBSTER, W. H.,	Oconto.
WIGMAN, J. H. M.,	Green Bay.
WINKLER, FREDERICK C.,	Milwaukee.

## WYOMING.

ARNOLD, CONSTANTINE P.,	Laramie.
BROWN, MELVILLE C. (Juneau, Alaska),	Laramie.
BURDICK, CHARLES W.,	Cheyenne.
BURKE, TIMOTHY F.,	Cheyenne.
CLARK, GIBSON,	Cheyenne.
CORN, SAMUEL T.,	Cheyenne.

## WYOMING.—Continued.

CORTHELL, NELLIS E., . . . . .	Laramie.
KNIGHT, JESSE, . . . . .	Cheyenne
LACEY, JOHN W., . . . . .	Cheyenne.
POTTER, CHARLES N., . . . . .	Cheyenne.
RINER, JOHN A., . . . . .	Cheyenne.
VAN DEVANTER, WILLIS (Washington, D. C.), .	Cheyenne.
VAN ORSDER, JOSIAH A., . . . . .	Cheyenne.

## RECAPITULATION.

STATES.	NO. OF MEMBERS.	STATES.	NO. OF MEMBERS
Alabama, . . . . .	7	Montana, . . . . .	5
Alaska Territory, . . . . .	3	Nebraska, . . . . .	59
Arizona, . . . . .	5	New Hampshire, . . . . .	13
Arkansas, . . . . .	17	New Jersey, . . . . .	36
California, . . . . .	20	New Mexico, . . . . .	1
Colorado, . . . . .	122	New York, . . . . .	170
Connecticut, . . . . .	39	North Carolina, . . . . .	9
Delaware, . . . . .	12	North Dakota, . . . . .	3
District of Columbia, . . . . .	56	Ohio, . . . . .	97
Florida, . . . . .	8	Oklahoma Territory, . . . . .	2
Georgia, . . . . .	41	Oregon, . . . . .	4
Idaho, . . . . .	3	Pennsylvania, . . . . .	133
Illinois, . . . . .	118	Rhode Island, . . . . .	15
Indian Territory, . . . . .	2	South Carolina, . . . . .	7
Indiana, . . . . .	68	South Dakota, . . . . .	6
Iowa, . . . . .	42	Tennessee, . . . . .	27
Kansas, . . . . .	13	Texas, . . . . .	22
Kentucky, . . . . .	28	Utah Territory, . . . . .	5
Louisiana, . . . . .	21	Vermont, . . . . .	4
Maine, . . . . .	22	Virginia, . . . . .	34
Maryland, . . . . .	66	Washington, . . . . .	4
Massachusetts, . . . . .	112	West Virginia, . . . . .	9
Michigan, . . . . .	73	Wisconsin, . . . . .	51
Minnesota, . . . . .	17	Wyoming, . . . . .	13
Mississippi, . . . . .	5		
Missouri, . . . . .	71		
		Total, . . . . .	1,720

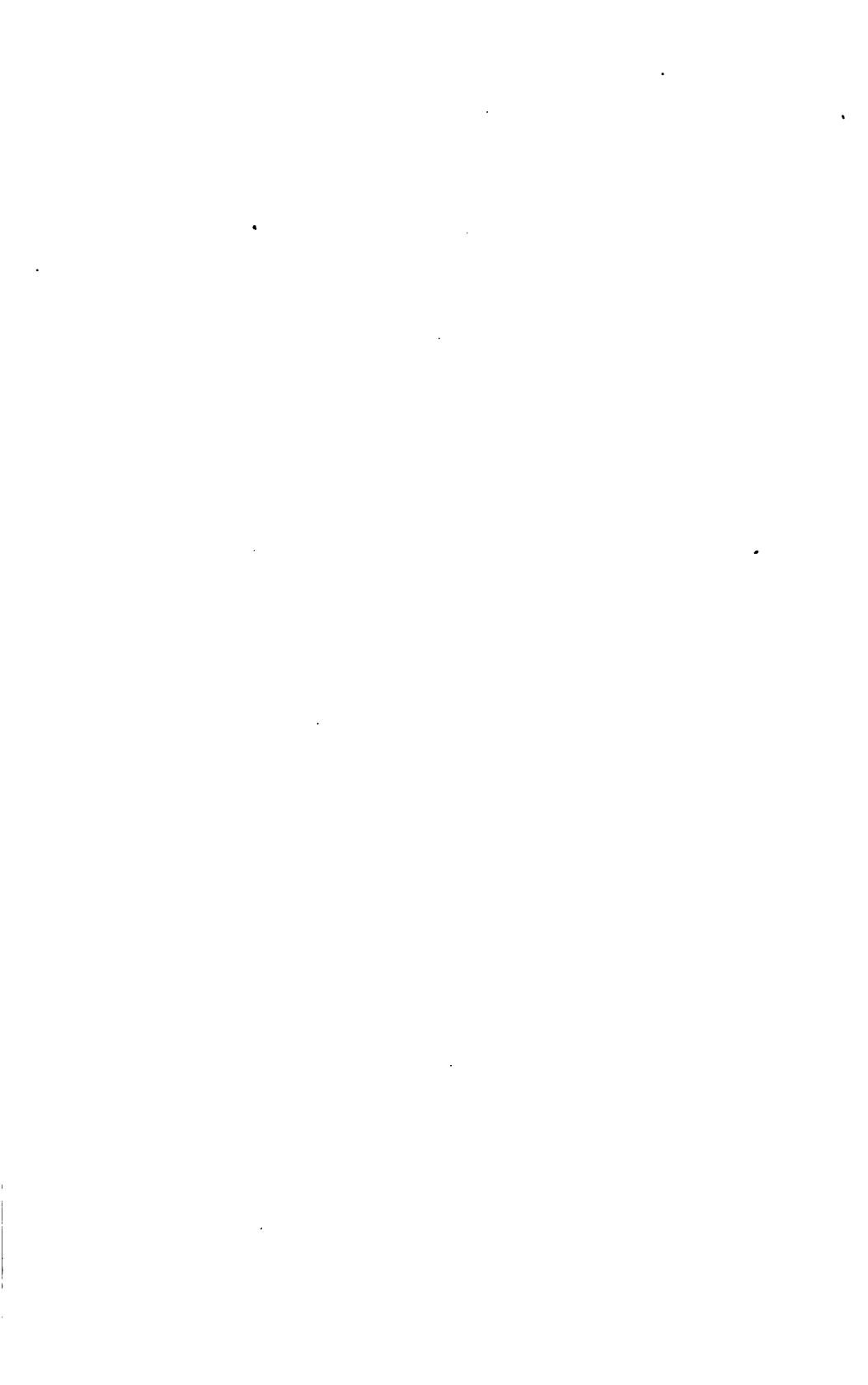




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## APPENDIX.

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## ADDRESS OF THE PRESIDENT.

EDMUND WETMORE,

OF NEW YORK, NEW YORK.

*Gentlemen of the American Bar Association :*

We have gathered here to hold our twenty-fourth annual meeting, and, first, I congratulate you upon the place we have chosen for our assembly. Not alone, or chiefly, because of its beautiful surroundings, of the clear blue above us, the majestic mountains that bound the western sky, or the fair city that welcomes us, but because having crossed the Mississippi, traversed the vast plains and come more than two thousand miles from our last place of meeting in the valley of the Hudson, we find that we have not yet reached the geographical center of the continental territory of the United States, and, as the extent and magnificence of the land we inhabit is thus brought home to us, we feel more deeply the blessing and the responsibility of American citizenship ; we appreciate more fully the dignity of a profession that has for its study the laws that hold the people of this vast empire together : laws, too, that emanate from the people themselves, that have their sole force and sanction from the public conscience and the public will. The civil law, the *jus civile* of the Roman Empire, is the scientific embodiment and codification of the rescripts of emperors or the decrees of senates, in the framing of which the subjects and people of that empire had no voice ; the jurisprudence which it is the object of our Association to advance, the system of laws which we aim to improve, is the embodiment of the experience and wisdom of the whole English-speaking race, the expression of the will of the communities that make up the people of a mighty nation. There is no subject of investigation more worthy the exercise of an enlightened intelligence

or more befitting the thoughtful attention of the members of the profession to which we belong.

The constitution of our Association makes it the duty of the President to communicate in his annual address the most noteworthy changes in statute law on points of general interest made in the several States and by Congress during the preceding year.

In the performance of this duty I have thought I could most profitably fulfill the intention of this provision by classifying the legislation of the several States under the titles of the different subjects to which it relates, treating it collectively by topics rather than undertaking to give an abridgment of the changes made in the statutes of each State separately considered. And for the purposes of an address, and especially one to be delivered within a reasonable limit of time, it has seemed to me most expedient to set forth, as briefly as possible, merely the substance and effect of that legislation which appeared most significant and characteristic of the tendency of public thought and opinion as reflected in the statutes passed during the year; to attempt to give a correct outline of the most important parts rather than a complete abridgment of all that may be worthy of notice. Furthermore, a complete and highly useful annual comparative summary and index of the legislation by States has been for some years published towards the close of each year by the New York State Library, under the directions of the Regents of the University of that State, which is readily accessible to all, and surpasses and renders quite unnecessary any private efforts in the direction of compiling a similar digest.

Following the plan I have suggested, the important subjects affected by the legislation of the year are those of corporations and trusts, labor, taxation, municipal ownership, elections, the administration of the law, civil and criminal and newly created offences, education, the laws relating to marriage and the relation of husband and wife, and laws upon miscellaneous subjects, for the regulation of those matters affecting the

public health, morals or welfare which there is an increasing tendency to bring under legislative control.

#### CORPORATIONS AND TRUSTS.

*Corporations and Trusts* have continued to occupy much legislative attention. The incorporation of a company in one State solely for the purpose of doing business elsewhere is not generally looked upon with favor in the States where they are intended to operate, and there is a tendency to exact, as far as possible, the same guarantees and extend the same control over foreign corporations as over those chartered by the State where they do business and even to hold the foreign corporation to a stricter accountability.

A law of Indiana enacts that every foreign corporation doing business in that State shall maintain a public office therein for the transaction of its business, and shall not be permitted to mortgage, pledge or otherwise encumber its real or personal property situated in the State to the injury or exclusion of citizens of Indiana, and no mortgage by any foreign corporation, except railroad and telegraph companies, given to secure any debt created in any other State, shall take effect against citizens of Indiana until all its liabilities due to any person or corporation in the State of Indiana at the time of recording such mortgage have been paid and extinguished.

By a further provision of the same act every foreign corporations now or hereafter doing business in the State of Indiana must file a copy of its articles or certificate of incorporation and pay upon the proportion of its capital stock represented by its property and business in Indiana, incorporating taxes and fees equal to those of similar corporations formed under the laws of that State.

Nevada provides for the filing by such corporations of an annual statement of their business, and Wisconsin, by an amended act, a statement of the proportion of capital stock represented by property situated within that State for the

purposes of taxation. Similar acts to the foregoing now exist in many of the States.

Any foreign life insurance company which unsuccessfully contests any claim for insurance in the State of Colorado must pay to the successful party an attorney's fee to be taxed by the court, and if the court or jury shall find that the defense was frivolous or interposed for delay, shall forfeit an amount not to exceed twenty-five per cent. of the recovery.

Some States which have been noted for the great liberality of their incorporation laws have shown a tendency to greater strictness.

West Virginia amends her statute by requiring that stock, except for the purchase by mining or manufacturing companies of property for corporate use, shall not be disposed of by a company incorporated in that State for less than par without a vote of three-fourths of the stockholders, and a large increase is made in the annual license tax for the right to do business.

And New Jersey, by a supplement to her laws, imposes an annual franchise tax especially directed to companies not carrying on business in the State, and, by proclamation of the Governor, under date of March, 1901, forfeits the charters of some six hundred corporations for the non-payment of other taxes already imposed.

Other States have shown a tendency to relax their laws in some important respects in order to retain corporations within their own borders. With this end in view, an amendment to the laws of Rhode Island limits the liability of stockholders and officers of manufacturing corporations for the debts or obligations of such company, to the shares of such members paid up to the par value thereof, and repeals the sections of the old law requiring the filing of annual returns as to the value of property and the amount of debts and liabilities.

But the most marked advance in this direction is seen in the enactments of the last legislature of New York, indicating a distinct change in the policy of the State, and a purpose to attract incorporated capital. I give in an abridged form a

convenient summary of the new laws contained in a publication of Mr. Frank White, of the New York and Albany Bar. The liability of stockholders and directors is restricted. The incorporation tax has been reduced. The duty of filing an annual report, the omission of which rendered each individual director liable for all the debts of the corporation, has been stricken from the statutes, and a report is only required, whether from domestic or foreign corporations, on the written request of a stockholder or creditor. The power to borrow money has been enlarged, and a corporation is permitted to borrow as much as its credit and security will permit, without reference to the amount of its capitalization. Proceedings for an increase or diminution of capital stock are simplified. Agreements are authorized for pooling stock or creating voting trusts, and the issue of certificates of beneficial interest in lieu of stock deposited with the trustee and the purchasers of corporate mortgage bonds, are protected by a provision that a mortgage given by the corporation, after it is recorded for one year and the interest paid thereon, becomes valid notwithstanding irregularity in the method of its execution. These are some of the most significant changes in the laws affecting corporations in the State of New York.

It indicates a gradual change of public sentiment in that community, a diminution of the fear and jealousy of corporate wealth and influence, which led to many enactments hostile to that form of employing capital and conducting business. Experience in that State has tended to show, and it has been a matter of comment that has doubtless affected public opinion, that the great corporations seldom attempt to secure affirmative legislation in their favor. They are strong enough to get along without legislative aid; what they most frequently wish to avoid is legislative interference. They, as a rule, do not ask for special privileges, but oppose the special burdens and restrictions which they charge are inequitable and involve an unjust discrimination against themselves and tend to cripple their proper and lawful action. And it must certainly be

admitted that wherever class legislation has crept into our statute books during the past decade, it has not been in favor of corporations. New York, recognizing that the advantages of conducting many business enterprises, especially enterprises of great magnitude, through the instrumentality of the corporation rather than by individual effort, alone or in partnership, and indeed the impracticability of carrying on many forms of business in any other way, have made the corporation a permanent institution, and the most important agency in conducting modern business affairs, has frankly adopted the policy of encouraging incorporation under her own laws, on the ground that corporate capital should be attracted rather than driven from the State, and that corporations can be best regulated, abuses best corrected and public interests best protected, by just, fair and impartial treatment of those bodies at the hands of the legislature.

Somewhat in contrast to the statutory changes in New York upon this subject, may be placed the continuance in other States of the legislation intended to restrict or abolish the corporations which may be classified as trusts.

The statute of Indiana has been extended so that all agreements or combinations, whereby any party or corporation refuses to furnish any article required to be used in the manufacture of any article or merchandise, when the party or corporation can furnish the same, or by charging more than the regular and ordinary price therefor, and all arrangements, contracts or acts made for the purpose of compelling any manufacturer to cease the manufacture of any article of merchandise, or to close down or go out of business, are declared against public policy and void, and the violation of the act by any corporation *ipso facto* forfeits its charter, and its violation by any individual, as director, agent or otherwise, is made a felony.

By an amendment to a former act it has been made unlawful in Minnesota to enter into any agreement, trust, combination or understanding to fix the price of any article or com-



modity, or to maintain said price, or to fix the amount or limit the quantity of any article or thing whatsoever, or to limit competition by refusing to buy from or sell to any person or corporation because such other person or corporation is not a member of or party to such combination, or to boycott or threaten anyone for buying from or selling to such outside parties, and large powers are conferred upon the district courts of the State to restrain violations of the law by injunction, but it is provided that labor organizations shall not be deemed trusts under the act.

The subject of trusts has entered into the political issues that divide parties in the country, and, as might be expected in such case, the legislation in regard to them partakes somewhat of the heat engendered by political discussion, and is liable to run to extremes. It is difficult, for example, to perceive any reason why combinations formed for the purpose of refusing to work for those who are not parties to such combination, or for fixing the price and preventing competition in labor, which is one of the chief elements of the cost of production in all manufactured articles, and, therefore, one of the chief elements in affecting the price of such articles to the consumer, should be exempted from the prohibitions of the act just referred to. If it is injurious to the community to fix the price or limit the production of any commodity, it is equally injurious to the community to fix the price and limit competition in the labor that goes to its production. Time and experience will, doubtless, show the expediency of modifying much of the legislation that has been had upon this difficult subject. It is a striking fact, however, that while thirty States of the Union have adopted stringent anti-trust laws within the past eleven years, yet, during the same period, the amount of capital and labor employed in the form of consolidated incorporation, to which that name is usually given, has, in those very States, steadily and even enormously increased, which would seem to show that without trenching upon rights guaranteed by the constitutions of all the States, the abolition of that form of the employment of capital is beyond the reach of legislative power.

## LABOR.

The laws passed during the year relating to *labor* continue to exhibit the strong disposition to favor the working classes which has been for so many years a marked feature of our legislation.

California, Minnesota and Utah have, by stringent laws, provided that eight hours shall constitute a day's work on all public works or contracts, and an act of the Montana legislature has, in the case of mining operations, so far as underground work is concerned, applied the eight-hour limit of the working day to individual employers as well as corporations, with a criminal penalty for a violation of the law. This, although following precedents already existing in previous legislative or in constitutional provisions, is a noteworthy incident, for it would appear that if the legislature can prescribe the hours of labor between the individual employer and employee in regard to the work involved in one sort of private enterprise, it will suggest and facilitate an advance to the position that the legislature can prescribe the hours of work in all private contracts for labor of any kind.

The Colorado Eight-hour Law, so-called, passed in 1899, has been held invalid by the Supreme Court of the State on the ground that it provided for the health of the miner and no other class of citizens, and was class legislation, and in violation of the State Bill of Rights. This has led to the submission to the people, by virtue of an act of the Legislature of the present year, of an amendment to the State constitution intended to remove the obstacles which led the court to hold the former act invalid.

A further law of Colorado provides that all private corporations doing business in the State, except railroads, shall pay their employees in cash or checks convertible into cash on demand the fifth and twentieth day of each month, and railroads are required to pay once a month.

Another provision of the same law enacts that whenever any employee is discharged from the service of such corpora-

tion, then all the unpaid wages of such employee shall immediately become due, and that any contract between any corporation or any parties in its employ, the provisions of which shall be in violation or contravention of the act, shall be unlawful and void. By a separate act, a former law prohibiting boycotting and blacklisting is repealed.

It is provided in Indiana that the minimum wage of unskilled labor upon all public works shall be twenty cents an hour, and Texas has passed an act prohibiting any person, firm or corporation from issuing any obligation redeemable in goods or merchandise in payment of labor rendered by any servant or employee whomsoever.

In regard to the *liability of employers*, Colorado has passed an act making an employer an insurer of his employees to the extent that he is liable for any injury or death suffered by an employee because of the omission of duty or negligence of a co-employee, in the same manner as if it had been the negligence of the employer, and by a law of Indiana all pre-contracts between the employer and employee releasing the employer or third person from liability for negligence are declared null and void.

Minnesota authorizes any city of the State of over 50,000 inhabitants to establish and conduct employment offices, and Kansas establishes an employment bureau and free employment agencies through the State to be maintained at the public expense.

Oregon has passed a sweeping law for the protection of union labels.

Utah, Illinois, Missouri and Idaho have passed laws creating or regulating the powers of Boards of Mediation and Arbitration, and in Missouri the violation of the conditions of the decision of the Board where both parties have agreed to the arbitration is made a misdemeanor. All the facilities which the law can afford for the creation of impartial Boards of Arbitration and to encourage the submission to them of disputes between labor and capital will be welcomed. In this

and all legislation affecting a subject in which the people have so deep an interest, it is only to be remembered that the scales should be held even, that the right to co-operate belongs to all alike, that constitutional guarantees secure untrammelled freedom to every man to give his labor or to employ the labor of others upon such terms as the parties themselves may agree, subject only to the restraint of such abuses as, on grounds of public policy and the public right, may be properly the subject of legislative interference. The more exactly the laws are framed to preserve a just equality of right to all classes with undue harshness or favor to none, the more powerful their influence in bringing about justice in the dealings of men, singly or combined, with each other.

#### CREDITORS' RIGHTS AND PROTECTION OF TITLE TO PROPERTY.

Passing from the subject of labor and adverting briefly to that of laws for the *better security of property and the rights of creditors*: Kansas by an amended act makes it larceny to injure, destroy or conceal personal property covered by a mortgage or to sell or dispose of the same without the consent of the mortgagee, and to execute a release of a chattel mortgage with intent to defraud the mortgagee is made a felony.

Laws for the registration and protection of trademarks have been passed by Illinois, Nebraska, Pennsylvania, Utah and Wisconsin, and the Torrens system of registration for the better securing the title to real estate has been adopted by Minnesota, and a commission to investigate that system been provided for by the legislature of Nebraska.

#### TAXATION.

There has been voluminous legislation during the year upon the subject of *taxation*.

Minnesota provides for the appointment of a tax commission to make a complete code of taxation and recommend such constitutional amendments as may be necessary to carry out the

system. The same State has passed an inheritance tax law intended to obviate objections held by the Supreme Court of the State to invalidate a prior act on the same subject.

Inheritance tax laws have also been passed by Arkansas, Nebraska and Utah. Colorado provides that the inheritance tax shall extend to any property which shall be transferred by deed, grant, sale or gift made in contemplation of the death of the grantor, and Maine has raised its inheritance tax from  $2\frac{1}{2}$  to 4 per cent.

New York imposes a franchise tax on savings banks of one per cent. annually on the par value of their surplus and undivided earnings, and a similar tax upon the capital stock, surplus and undivided profits of every domestic trust company authorized to do a trust business in the State, but with large exemptions from all other taxation.

As regards the taxation of mortgages, a law of Missouri provides that the value of the mortgaged property, less the value of the mortgage, shall be assessed and taxed to the owner of the property, and the value of the mortgage shall be assessed and taxed to the mortgagee or owner thereof. This law was adopted as an amendment to the Constitution by a vote of the people in November, 1900, and the same principle was thereafter enacted into a law by the legislature in 1901. The provision was, however, declared unconstitutional in the cases of *Russell vs. Croy* and *Holmes vs. Croy* (63 S. W. Rep. 849), on the ground that the amendment does not offer the equal protection of the laws guaranteed by the Fourteenth Amendment to the Federal Constitution, the inequality consisting in the exception as to railroad and other quasi-public corporations, whose securities are excepted from the operation of the law by the terms thereof.

Colorado provides that mortgaged property shall be assessed as a unit at full value, disregarding the mortgage, which shall not be otherwise returned or assessed, while Idaho wholly exempts from taxation all dues and credits secured by mortgage, trust deed or other lien. This legislation holds out a promise of

the gradual abolition, wherever it exists, of the double taxation of both the mortgage and the mortgaged property, each without regard to the tax paid upon the other, a mode of taxation as inexpedient as it is unjust.

Connecticut has appointed a special tax commissioner to examine the whole operation of the tax laws throughout the State, and to report thereon to the General Assembly with such recommendations as he may have to offer, and Idaho and Colorado have passed comprehensive revenue laws dealing with the subject of taxation and much the same in their general provisions. The Idaho law is especially stringent in some particulars, for it not only makes it a misdemeanor to assess property at a lower rate than its actual cash value, but provides that if any property shall escape taxation for any year, and the fact be thereafter discovered, the amount shall be deducted from any unpaid salary due or to become due at the time of such discovery to the assessor during whose administration such property was not assessed, with the right to the assessor to be subrogated to the State so that he may collect the tax for himself if he can.

The Colorado act provides, among other things, that on the first of January of every year each assessor is to leave with every inhabitant of his county blanks for making a return of his property for the purpose of taxation, and every such inhabitant is required to make upon such blank a full and detailed statement of all his or her personal property at its cash value, and all his or her real estate situated in the county, and all property held in a fiduciary capacity. This return must be under oath, and elaborate regulations are made to secure its fullness and accuracy. The obligation extends to all, and the return must include the particulars of property claimed to be exempt, and must be made not only by those who have taxable property but by those who have none, who are obliged to swear to their exemption on this account.

This act has been declared unconstitutional by one of the district courts of the State on the ground of failure to comply

with certain constitutional requirements as to its mode of passage.

As to the merits of the bill, experience has shown the difficulty of the enforcement of so searching a measure for the ascertainment of private property, but it is a notable instance of an attempt to carry out the true theory of taxation, which is, that the burden should be borne by all, each in proportion to his ability, be the ability never so slight and the corresponding proportion never so small. Adam Smith rightly laid down the rule that "The subjects of every State ought to contribute to the support of the Government as nearly as possible in proportion to their respective abilities; that is, in proportion to the revenue which they respectively enjoy under the protection of the State." The increase in the complexity of modern government administration, the enormous increase of functions assumed by the State, the public works demanded by modern conditions and many other causes, create an inevitable and, to a large extent, a necessary increase in taxation, and the one remedy to prevent this increase from becoming oppressive and against extravagance and ill considered public expenditure, is to distribute the burden. The law of Colorado is to be commended, so far as it makes a bold effort to avoid the evil of having one class of the community vote the taxes and another class pay them.

#### MUNICIPAL OWNERSHIP.

The extension of *municipal ownership* is provided for by acts of the Legislatures of Minnesota and Wyoming authorizing municipalities to construct and operate electric light and power plants, and, in the case of Wyoming, plants for the furnishing of heat as well. The meagerness of legislation during the year upon this subject indicates that there as yet exists no widespread or settled belief in the expediency of extending beyond present limits the subjects of municipal ownership and control.

## ELECTIONS.

There has been much legislation during the year regarding the *right of suffrage* and the *methods of nominating candidates*.

As to the qualification of voters, an amendment to the constitution of the State of Texas is to be submitted to the voters at the next general election, making the payment of a poll tax on the part of all those subject to the payment of such tax a necessary prerequisite to the right to vote at any election, and an act of the Legislature of Rhode Island, passed in pursuance of a constitutional amendment, provides that no person shall vote in the election of the City Council of any city, or on any proposition to impose a tax or for the expenditure of money in any town or city, unless he shall, within the year next preceding, have paid a tax assessed upon his property thereon valued at at least \$134.

As regards the extension of the suffrage. Texas now includes among its qualified voters aliens who have resided a year in the State and have declared their intention of becoming citizens, and a joint resolution of the State of Wyoming, after reciting the experience of that State, recommends the enfranchisement of women in every State and Territory of the American Union as a measure tending to the advancement of a higher and better social order.

But the branch of this subject which has received the most attention from our legislatures has been that of primary elections and the nomination of candidates. Primary election laws or important amendments thereof have been passed in the States of Indiana, Minnesota, Missouri, Oregon and Kansas. The general features of these laws are much the same. They transfer to the party primary or caucus, as far as practicable, the prevailing system of registration and voting at general elections, and seek to restrain and, in some cases, to supersede the action of the political convention. The preamble to the Oregon act declares that the evils and vices of the convention system of nominations and of declaring principles and policies have become and are so flagrant and oppressive as to deprive the



great majority of our citizens of that fullness of political liberty which our constitutions were designed to secure. Some of the provisions of these laws will arrest attention.

The act of Indiana applying to political parties in counties of the State in which there is located a city with a population of fifty thousand or more, provides for a preliminary election of precinct committeemen, who shall determine whether candidates shall be nominated by direct vote at a primary election or by delegate convention.

The law of Missouri, which does not apply to any organization formed solely for the election of city officers in cities of over three hundred thousand inhabitants, but is otherwise general in its application, among other matters, imposes strict regulations upon party conventions, providing for the apportionment of delegates, that the meeting room of the convention shall have ample seating capacity for all delegates and alternates, prescribing who shall call the convention to order, that the roll call for the election of a temporary chairman shall not be delayed for more than an hour after the time specified for the opening of the convention, provided a majority of the delegates are present; and further providing that the rules and regulations of parties and of the conventions and committees thereof shall not be contrary to or inconsistent with the provisions of the act. The courts are given summary jurisdiction to review any infraction of the act by any officer or member of a political convention or committee, and in reviewing such action the court shall consider, but need not be controlled by any action or determination of the regularly constituted party authorities upon the questions arising in reference thereto.

The primary laws of Oregon apply to cities having a population of over ten thousand and to counties having a population of fifty thousand and upwards and such other counties as may by voluntary action adopt the provisions of the act. It is provided that the act shall govern political parties in all their operations within the confines of a single county, and that not

only all nominations of candidates for public office, but the election of all delegates and party officers, the making of all the rules for party government, and the adoption of all party policies and principles, within said limits, shall be done at primary elections under the act, and that the name of a candidate of any political party shall not be printed unless the candidate be selected at a primary election, and that no person whose name has been proposed and voted on as that of a candidate for nomination at such primary election and has not received a nomination thereby, shall be nominated as a candidate for public office at the ensuing election in any other manner. Any proposition may be submitted at a primary which is a statement of political party principle or policy, or a resolution affecting party government or organization. It shall be brief and concise in terms, shall cover a single point or question, and shall not exceed fifty words in length, and the voters shall vote upon it yes or no, and any person publishing or representing any declaration of party policy or principle, as being adopted or established by any political party, when not adopted or established by vote at such primary election, shall be guilty of a misdemeanor and liable to a fine of not more than \$500 or imprisonment for not more than six months or both.

The practicability of enforcing this law and the constitutionality of some of its provisions are matters of serious doubt. But there can be no doubt of the wisdom and necessity of seeking to obtain the object which the law has in view, which is to remove as far as possible every obstacle, except those of his own making, which might hinder or prevent any citizen from having a fair representation in the selection of candidates by the party of his choice. If the opportunity thus offered is neglected the fault lies with the elector, and if corruption should then prevail its existence would be due less to the pernicious activity of the politician than to the less conspicuous, but equally pernicious inactivity of those who neglect the performance of a plain political duty.

Special sessions for the passage of election laws have been held by the States of Maryland and Kentucky, and it is a matter of congratulation that most of the features of the law of 1898 in the latter state, which led to such disastrous consequences, have been removed, and public confidence in the methods of election restored, and public peace and security reestablished.

The movement for the election of United States Senators by direct vote of the people has received the adherence of nine States during the year: Arkansas, Colorado, Georgia, Montana, Nevada, Oregon, South Carolina, South Dakota and Idaho, the legislatures of which have passed acts or joint resolutions in favor of the adoption of an amendment to the Constitution for bringing about that result.

Oregon has gone further, and its legislature has passed a bill whereby candidates for the office of United States Senator are voted for at a general election and the returns certified to the State Legislature, "and it shall be the duty of each House to count the votes and announce the candidate for Senator having the highest number, and thereupon the House shall proceed to the election of a Senator as required by the Act of Congress and the Constitution of the State."

An amendment to the State Constitution will be submitted during the coming month of October to the people of Connecticut, providing that a plurality vote shall be sufficient for the election of Governor and other State officers, and in Pennsylvania a constitutional amendment is to be submitted which permits elections hereafter to be by ballot or by such other method as may be prescribed by law, providing that the secrecy in voting be preserved.

The last provision may have reference to voting machines, the use of which has been sanctioned during the year by the laws of Maine, while Indiana, Kansas and Rhode Island have revised their laws in relation to the subject, introducing provisions intended to extend and improve this method of voting.

A constitutional amendment is to be submitted to the people of Oregon for the adoption of the initiative and referendum, whereby eight per cent. of the voters may propose any amendment to the constitution or any desired law to be voted upon at a general election, and upon the petition of five per cent. of the voters, the approval or disapproval of any act of the legislature, with the exception of a few emergency laws, is, in like manner, left to popular vote.

Should this amendment be adopted, it will involve the trial of an experiment of supreme importance. Recent writers upon our political system have noted, with deep interest, the manifest and increasing tendency during the past fifty years to abridge the law-making power of the legislature and extend the law-making power of the people. To this tendency is due the fact that the constitutions of the States and constitutional amendments, adopted within the last twenty years, abound in provisions and restrictions which, at the time of the formation of the government, would have been regarded as matters falling solely within the province of the legislature. Instead of consisting solely of declarations of general principles and guarantees for a few fundamental rights, they have become, in substance, more or less extensive and detailed codes of law enacted by the whole body of the people. The same tendency is shown elsewhere in the steady increase of measures which, by one method or another, are submitted to popular vote before they can become laws; in the adoption of biennial sessions of the legislature, and in the movement, already noticed, to elect United States Senators by direct vote.

This tendency is chiefly due to a distrust of legislative bodies; to the belief that they can be reached by corruption and are subject to the despotic power of political management. It has been said of our country that nowhere is there so great a respect for the laws, and so little respect for the law makers. That this distrust has much reason for its existence no one can deny. That a large body of questions can not only safely but best be trusted to the direct vote of the people is not only

shown by experience, but it is a necessary conclusion from our whole theory of popular government. That the result of the referendum in our own country, as far as that method of legislation has been actually adopted, has been, on the whole, beneficial and gratifying I believe no impartial student of our political history will deny, but, with all this, it is to be remembered that there are some questions which it is impossible to expect that the whole body of voters can master or deal with, that the representative feature is an essential and fundamental element of our form of government, which cannot be abolished or abridged beyond a certain point, without destroying that form itself and that carrying the initiative and referendum to an extreme, if it baffles the power of the corruptionist, enlarges the opportunities of the crank, and that the unscrupulous action of the one may be less calamitous in its effects than the well-intentioned folly of the other.

#### THE ADMINISTRATION OF THE LAW.

Some noteworthy enactments have been made in regard to the practice and administration of the law.

By a law of Wyoming legal service of all papers in civil actions or proceedings may be made by copies transmitted by telegraph or telephone. Missouri has adopted the rule of majority verdicts in civil cases, providing that a verdict may be rendered by three-fourths of the jury, in such cases in courts of record, and in courts not of record by two-thirds.

To insure promptness of decision, a rather strenuous measure has also been adopted by the Minnesota legislature providing that, in case any judge shall delay for over five months to decide any matter submitted to him, unless prevented by actual disability or the time be extended by consent of counsel, the State auditor is peremptorily directed to issue no warrant for his salary after the expiration of said five months and as long as he remains in default, and, as bearing upon the enforcement of judicial decisions when rendered, especially as regards injunctions, an amendment to the code of procedure of Colorado provides that

all cases of alleged contempt, not committed in the view and presence of the court, may, upon demand, be tried by a jury.

Several measures have been passed of interest to attorneys.

It is made a criminal offense in Alabama for any attorney to employ another person to search for or procure him clients, and a like offense in Texas to seek employment in any suit or action either by procuring another to solicit for him or by personal solicitation of his own. These acts were, doubtless, intended to strike at the abuse of instigating speculative suits especially in negligence cases, but their terms are so broad that unless tenderly construed, they are liable to entail some discouragement upon those just entering practice, and to repress competition in the exercise of the most useful of the professions.

Several of the States have passed acts in relation to the disbarment, and several acts of more or less elaboration in regard to the admission, of attorneys. It may be doubted whether a better provision as respects the last named subject can be found than that contained in the statute of Virginia which simply prescribes that admission to the bar may be granted by any three or more judges of the Supreme Court of Appeals of the State, voting together, under such rules and regulations and upon such examination, both as to learning and character, as may be prescribed by the court.

The process of codification and revision of the statutory law, in view of the volume of our legislation, is constant and inevitable. California, this year, has adopted a revised and amended Code of Civil Procedure. Idaho establishes a commission to which is entrusted the duty of codifying the laws of the State, continuing the work in that behalf of a former commission for the same purpose. A similar provision for the codification of the laws of South Carolina and of South Dakota have been made by the respective legislatures of those States, and Minnesota has passed a statute for the revision and codification of the general laws of the State, besides the statute already adverted to appointing a commission to make a complete code

of taxation and recommend such constitutional amendments as may be necessary to carry out the system. New Hampshire provides for a convention to meet in December, 1902, for the revision of the State Constitution, and constitutional conventions have been in session for the same purpose in Virginia and Alabama.

In regard to the administration of the criminal law, the experiment of placing convicts upon a probationary term has been undertaken in New Jersey, Connecticut and New York. The Connecticut act provides for sentences imposing a maximum and minimum term of imprisonment, and after the expiration of the minimum term the prisoner may, for the rest of his sentence, be allowed to go at large on parole, while by the New York act sentence may be suspended and the convict placed on probation, revocable in the discretion of the court.

These enactments, which are analogous to the English ticket-of-leave system, follow the policy already adopted in enactments shortening the terms of imprisonment by reason of good behavior, and it is to be earnestly hoped, as it may be expected, that they will prove salutary in operation.

Akin to the laws for administering justice in criminal cases are those creating new criminal offenses, or relating to the penalties for old ones, which curiously illustrate the quickness of the law to meet new offenses, great or small, which may arise to threaten the peace or security of society, as well as a slight reversion towards the ancient policy of our Puritan ancestors for punishing by the State what may be little more than offenses against good manners.

In regard to graver crimes, late instances of kidnapping and holding for ransom have led to new or amended laws in regard to that crime in no less than twenty States, imposing punishments of varying severity, from long terms of imprisonment to the death penalty. A law of Indiana in regard to lynching provides that in case any person shall be taken from the hands of the sheriff or his deputy and lynched, it shall be conclusive evidence of failure on the part of such sheriff to

do his duty, and his office shall thereupon and thereby immediately be vacated. In Pennsylvania it is made a felony to take the waste or packing from any journal box of a locomotive, an act apparently aimed at violence to prevent the running of trains.

Among the lesser offenses it is made a misdemeanor in Illinois to engage in the practice of hazing; in Pennsylvania for anyone to distribute free samples of medicine, dye, ink or polishing compounds where children may get hold of them; in Rhode Island to distribute "trading stamps" as is done in many stores to attract custom; in Washington and other States to operate a nickel-in-the-slot machine wherein there enters an element of chance; and in Virginia to exhortate in church.

#### EDUCATION.

Noble provisions have always been made in this country for *education* at the public expense until that has become, as noted by Chancellor Kent, "an increasing and favorite policy throughout the United States." The past year bears witness to this statement.

South Dakota has passed a general education law, providing an extensive system of free common schools, and minutely regulating public education throughout the State.

Attendance at schools is made compulsory as to children between the ages of eight and fourteen years. Besides the ordinary elementary branches, instruction is to be given in physiology and hygiene, with special instruction as to the nature of alcoholic drinks and their effect upon the human system, and prescribing that moral instruction intended to impress upon the mind of the pupils the importance of truthfulness, temperance, public spirit, patriotism, respect for honest labor, obedience to parents and due deference for old age shall be given by every teacher in the public service of the State.

A law of Wyoming provides that in addition to other branches there shall be taught in the public schools a system of humane treatment of animals; Idaho and Minnesota have



established free kindergartens in connection with their public school system, and Idaho, in addition, makes provision for furnishing free libraries and reading rooms in every city and village throughout the State.

By an excellent law of the State of Pennsylvania, a branch of the Courts of Quarter Sessions and Oyer and Terminer is designated to sit as a Juvenile Court to consider the cases of dependent and neglected children, and committing such children to the care of some suitable institution or person or training school, and power is given to compel the parent to contribute to its support.

#### HUSBAND AND WIFE.

There has been some interesting legislature during the year in regard to the relation of husband and wife.

A law of New York provides certain regulations for marriage and that a certificate of the solemnization thereof, or a written contract thereof, shall be duly filed and entered, and that no marriage claimed to have been contracted after January 1st, 1902, otherwise than as in the act provided, shall be valid for any purpose whatsoever, except that the marriage shall not be invalidated on account of the want of authority in any person solemnizing the same where the parties were married under the full belief that the marriage was lawful.

This act was intended to do away with the so-called common law marriage, in the belief that such abolition is in the interest of morality and the purity of the family and a bar to false claims and many great and flagrant abuses.

A law of Minnesota prohibits the marriage of the epileptic or feeble-minded, and Pennsylvania forbids the marriage of first cousins.

Minnesota, also, provides that no chattel mortgage of property exempt from execution or attachment can be made by a married person unless both husband and wife join in the mortgage, and a law to the same effect has been passed in Kansas.

Wilfully to neglect to support wife and children, where the ability to do so exists, is made a misdemeanor in West Virginia and in Minnesota a felony, but as somewhat of an offset to this, the same State provides that where husband and wife are living together they shall be jointly and severally liable for all necessary household articles and supplies furnished the family.

#### LAWS AND REGULATIONS RELATING TO PUBLIC HEALTH OR WELFARE.

A number of laws have been passed in relation to matters affecting the public health or security or comfort or improvement, some of which are wise and salutary, while others certainly lead in the direction of paternalism and a somewhat undue abridgement of individual liberty. To this class belong the laws requiring a license based upon an examination as to fitness as a condition of practicing various trades and callings.

In Connecticut, for example, it is hereafter made unlawful for any person to follow the occupation of a barber unless he first obtains a certificate of registration under the act, to obtain which he must pass an examination before a board of examiners and establish to the satisfaction of said board that he is of good moral character, has studied his trade for three years, is possessed of competent skill and has a certain degree of knowledge concerning the common diseases of the face and skin.

Similar acts have been passed in California and North Dakota.

A law of Pennsylvania provides that, hereafter, it shall not be lawful for any persons to carry on the business of plumbing or house drainage in cities of the second class without having obtained a license, to secure which the applicant must pass an examination as to his competency. Indiana has passed a law requiring a license and certificate of competency in regard to practitioners of the art of embalming.

Missouri provides that all persons desiring to practice medicine or surgery in the State must first pass an examination as

to fitness before the State Board of Health and obtain a license from that body, and that it shall be unlawful for any person, not now a registered physician, to practice medicine or surgery in any of its departments, or to profess to cure and attempt to treat the sick in the State of Missouri, unless such practitioner is licensed in accordance with the provisions of the act.

This law seems to be especially aimed at the faith cure and Christian Scientists, but it, perhaps, also brings within its prohibition the new system of medical treatment known as osteopathy, although that has received recognition as an established branch of medicine, and provision made for licensing its practitioners by the laws of California, Montana and Nebraska. The theory of all the foregoing laws is clearly based upon the necessity for the preservation of the public health. It is more difficult to trace a direct interest of the public at large in laws such as that passed in the State of Washington, prohibiting horseshoers from practicing their trade, in cities, without first passing an examination as to fitness and obtaining a license, however commendable such a law may be on humanitarian grounds, and it would seem to mark still more strongly the tendency of the State to extend its hand in every direction, in regulating business affairs, that Idaho should have provided that no person should be allowed to keep any employment office or agency without the written permission of the County Commissioners and the filing of a bond with good security in the full sum of \$5,000, conditioned that he shall well and truly carry out the purposes for which said agency shall have been established and pay all damages which may result from his actions as such agent. Whatever evils this law, which, it may be said, is not peculiar to Idaho alone, may have been intended to check, its terms are so broad, that it might, for example, wholly prevent a woman of limited means from earning a living by opening an employment bureau for domestic service, a business which many women have conducted honestly and successfully without other capital than capacity and good character. There is scarcely

any business where imposition may not be practiced, but to require a bond against imposition in every case where one undertakes such a business, imposes a condition that may often prove prohibitory and close up at least one avenue to the making of an honest living—an end which certainly must have been far from the intention of the framers of the law under consideration.

Resuming, briefly, the subject of public health, there is a noticeable improvement in the course of legislation upon this subject during the past quarter of a century, the laws keeping well abreast of the advance of scientific knowledge. An act of the New York Legislature during the past year, for example, creates a State Department of Health and the office of Commissioner of Health, the latter to be appointed by the Governor with advice and consent of the Senate, and who shall be a physician, a graduate of an incorporated medical college, of at least ten years' experience in the actual practice of his profession and of skill and experience in public health duties and sanitary science. He is given general powers relating to the health of the people of the State, inquiries as to the cause of disease, especially as to epidemics, effect of localities, employments and other conditions upon public health, the collection of statistics, power to compel the attendance of witnesses in making investigations and to reverse or modify orders of local boards of health, thus obtaining the great advantage of harmonious action and comprehensive treatment in regard to this all-important subject. Oregon, following in the same line, has created the office of State Bacteriologist, whose duty shall be the scientific investigation of animal and plant diseases, and the recommendations of remedies for their elimination. New York has also passed a Tenement House Act, the result of much study and investigation, containing elaborate provisions relating to protection from fire, and as to light and ventilation, provisions as to sanitary arrangements and registration of owners' names, besides many general regulations in the interest of morality and cleanliness. A private company has undertaken

the building of a block of tenement houses, made to comply in all respects with the provisions of this act, and now in course of erection. It is believed that the law will cause a marked advance towards solving the serious problem of providing for the tenement house population in our great cities. In the matter of temperance legislation, perhaps the most noteworthy statute is that passed by the Legislature of Kansas, whereby all places where intoxicating liquors are sold or given away in violation of law, or where persons are permitted to resort for the purpose of drinking intoxicating liquors, and all such liquors, bottles, glasses, kegs, bars and other property kept in and used in maintaining such a place, are declared to be common nuisances. Whether or not this applies solely to places maintained in violation of law is, upon the face of the statute, one of doubtful construction, but there can be no doubt that whatever may be its proper construction, it has received a popular interpretation which brings it under the common law principle that any one may abate a common nuisance.

The important subject of good roads has received attention from several of the State Legislatures. Montana has passed a law for a uniform system of road government and administration throughout the State. New Jersey has adopted a general system for the improvement of her roads, and Texas has amended and extended the laws relating to the road system in a large number of counties. California has established a license system for bicycles, automobiles and the like vehicles, the proceeds of the same to be applied to maintaining paths for the use of such vehicles, and also walkways for the use of pedestrians, and Minnesota and Rhode Island have established commissions charged with the duty of constructing and maintaining side paths, each one of whom in the last named State must be a cyclist.

One of the most gratifying features of the legislation of the year is the growing appreciation which is manifested in the cultivation and preservation of trees, and the subject of forestry.

Indiana has passed a law establishing a State Board of Forestry, consisting of five members, one from the State Forestry Association, one from the Retail Lumbermen's Association, one from the faculty of Purdue University and one from the wood workers of the State. The duty of the Board is to collect, digest and classify information respecting forests, timberlands, forest preservation and timber culture, and to recommend plans for the same and for the establishment of State forest reserves. Pennsylvania creates a Forestry Commission with power to purchase, under certain restrictions, any suitable lands in any county of the State, that, in the judgment of the Commission, the State should possess for forest preservation. Indiana has also passed an act giving Boards of Park Commissioners charge of the planting, culture and preservation of trees and shrubbery upon the sidewalks, streets and public grounds of the cities, with special and most salutary power to prevent their cutting down or removal, while a law of Connecticut provides for the election of three wardens in every town, who shall have, in like manner, the care and control of public shade trees with provision for a public hearing when a question arises whether any such tree shall be cut down. Experience and observation have established the fact that the preservation of trees and forests affects, in the most direct manner, the welfare of the State. Nowhere is the subject of more vital importance than in the West. The effect of the tree growth upon climate and rainfall, upon winds and droughts, upon the capabilities of the soil, the water supply, and, consequently, upon the wealth and resources of the State, is great and far reaching, and there is scarcely any matter that better deserves to be constantly kept before the public or made the subject of legislative care. It is also gratifying to know that beside the game laws, laws for the protection of song birds or birds valuable for their plumage have been passed by Florida, Wyoming and New York. From forests and birds to natural scenery is an easy step, and an act of the Legislature of New Jersey has placed the world that passes along the

Hudson under lasting obligation by providing for the appropriation of lands along the edge of the Palisades for an interstate park, and the preservation of the historic and beautiful scenery of that part of the river.

Passing from nature to art, Minnesota has created an Art Commission in cities having over seventy-five thousand inhabitants, and their approval is made a pre-requisite to the placing of any works of art in any public grounds or places. The operation of this law is to fix the responsibility for statues, fountains and the like, which may be erected in public, a responsibility which, however desirable it may be that it should exist, few will care to assume.

Rhode Island and West Virginia have been added to the States which provide that the United States flag shall be displayed over the public schools during school hours, and proper respect for that flag is enforced by acts passed in Colorado, Indiana, North and South Dakota, Oregon and Wisconsin, forbidding its use for advertising purposes, and providing a criminal punishment for anyone who shall publicly deface, defy or cast contempt upon any flag, standard, color or ensign of the United States. It is to be noted, however, in regard to forbidding the use of the flag for advertising purposes, that a similar act in Illinois has been held unconstitutional by the Supreme Court of that State. (*Ruhrat vs. People*, 185 Ill. 133.)

The Negotiable Instrument Act recommended by this Association has been adopted by the State of Pennsylvania, and the Governor of that State is authorized to appoint three commissioners for the promotion of uniformity of legislation in the United States, and to meet with the conference of commissioners of other States for the same purpose, but this important subject, and whatever has been done in regard to it during the past year, will be best presented to you in the report of our able and efficient Committee on Uniform State Laws.

## CONGRESSIONAL LEGISLATION.

Some acts of public and general interest were passed at the second session of the Fifty-sixth Congress.

The Appropriation Bill contains a provision in regard to the enlarged powers of the commission to revise and codify the criminal and penal laws of the United States, which prescribes that in performing that duty the said commission shall bring together all statutes and parts of statutes relating to the same subjects, shall omit redundant and obsolete enactments, and shall make such alterations as may be necessary to reconcile the contradictions, supply the omissions, and amend the imperfections of the original text; and may propose and embody in such revision changes in the substance of the existing law. When complete, the revision is to be submitted to Congress so that it may be reenacted, if Congress shall so determine. This is a most important work. Its performance requires the utmost skill, deliberation and care. It is one that has already received the attention of this Association, and will continue to receive our most earnest consideration. It will be seen that it involves a possible reenactment of the entire body of the Federal Statutes, an event of serious import, affecting the whole people of the United States, and of the deepest interest to our profession.

Another important act creates the office of standard weights and measures, known as the National Bureau of Standards, the functions of which consists in the custody of standards and the comparison of the Government standards with those used in scientific investigations, engineering, manufacturing, commercial and educational institutions, and the construction of standards and the determination of physical constants and the properties of materials.

The Bureau will exercise its functions for the National or State governments, or any scientific society, educational institution, company or individual in the United States engaged in manufacturing or other pursuits requiring the use of standards or standard measuring instruments. The advance in our



manufactures, the extent of our commerce, domestic and foreign, and the increased use of scientific instruments in the arts, renders the employment of accurate and uniform standards of measurement of every kind of the highest importance, and the new Bureau opens up a wide field of usefulness.

Another act of the last session requires the general manager or other proper officer of every common carrier engaged in interstate commerce by railroad to make to the Interstate Commerce Commission at Washington a sworn monthly circumstantial report of all collisions, or where any part of the train accidentally leaves the track, and of all accidents to its passengers, or to its employees while on duty, with a heavy penalty for the omission to make the report, but with a provision that it shall not be admitted as evidence or used for any purpose in any suit or action for damages against such railroad growing out of any matter therein mentioned.

Congress has also passed a complete code of law for the District of Columbia, and another act, which will be of interest to the Association, changes the name of a portion of Fourth Street, northwest, in the city of Washington, extending from the old City Hall to Pennsylvania Avenue to "John Marshall Place." The portion of the street thus selected is admirably situated for the purpose in view and, under its new name, will afford a striking monument to Marshall's memory.

The important army reorganization bill, known as an Act to Increase the Efficiency of the Permanent Military Establishment of the United States, was passed after much debate as to some of its provisions. It was passed in pursuance of the following recommendation contained in the President's Message: "I cannot recommend to your notice measures for the fulfillment of *our* duties to the rest of the world without again pressing upon you the necessity of placing ourselves in a condition of complete defence and of exacting from *them* the fulfillment of their duties towards us. The United States ought not to indulge a persuasion that, contrary to the order of human events, they will forever keep at a distance those painful appeals

to arms with which the history of every nation abounds. There is a rank due to the United States among nations which will be withheld, if not absolutely lost, by the reputation of weakness. If we desire to avoid insult we must be able to repel it; if we desire to secure peace—one of the most powerful instruments of our prosperity—it must be known that we are at all times ready for war.”

This message was delivered to the Second Congress of the United States, and the words are those of President George Washington.

A survey of the legislation of the year leads, with most commentators, to a lament over its faults and deficiencies, and to the utterance of a note of warning, pitched almost in the key of despair, over the evils that loom up, as sure to come, unless its present tendencies are checked. It has been the habit, among writers, both those of our own profession and those who were mere students of politics or sociology, to dwell so exclusively upon the short-comings and failures of our system of legislation that they have lost sight of much there is in it that is useful, good and admirable. The defects are palpable enough. They are, chiefly: *FIRST—Over-legislation.* Not only in the endless multiplication of laws, until what all are assumed, under penalty for ignorance, constructively to know, no one actually knows, or, within the ordinary span of life, ever can know; but, also, in the excessive extension of State supervision, transferring to the Government that which can be better done by private agency; in curtailing individual action; in meddlesome legislation; in class legislation, calculated to favor idleness and incapacity at the expense of industry and ability, and in most of that which goes under the vague appellation of socialism.

*SECOND*—It is urged against our legislation, and truly, that it is what has been called *opportunist legislation*; that it is the offspring of “the empirical school of politicians” who “never look beyond proximate causes and immediate effects;” that it is framed to meet the supposed needs of the hour, without

any comprehensive view as to its ultimate effects, and is rude and unscientific. Most of our bad laws will be found to fall under one or the other of these two broad divisions. Great complaint, it is true, is also brought against our legislation based on the charge that it is dictated by party management, the result of mere puppet action, controlled by known but unseen wires, but this influence seldom affects the character of our general laws. It is directed rather toward the confirmation of appointments, the making of appropriations, or the distribution of public revenue or employment so as best to strengthen party supremacy. The aim of the professional political manager is to secure, or at least not to oppose, the passage of laws that are popular; laws, the enactment of which public opinion clearly demands, or at least that public opinion in the party that has the majority in the legislature demands. Obedience to that opinion is the condition upon which the party leader holds his place. Hence, so far as interference by the political manager goes, legislation, as respects general laws, almost invariably reflects correctly what the prevailing party as a whole unmistakably demands, or if the demand comes from the whole community, irrespective of party, none are more careful to comply with that demand than those whose retention of their place depends ultimately upon the voters at the polls. No stronger instance of this need be cited than that, already referred to, of the laws respecting primary elections already passed in several of the States and sure to be passed in others. They are directly aimed at the supremacy of the party manager; they strike, and are intended to strike at the very root of his power. Yet, in every instance, where public opinion was unmistakably in their favor, no party managers have dared, if they wished, to oppose them. The public, therefore, remain responsible for the character of our general laws, which still reflect the wishes and opinions of the majority, without any effective interference from the mere political manager.

The sinister influence of the political "boss" so-called, is still, however, a controlling force in the selection of can-

didates, and, hence, the primary laws just mentioned, and, as against the other evil, the evil of the multiplication of laws and hasty legislation, the expedient of biennial sessions and the extension of the referendum as a check upon the legislature, have been adopted as the most direct and effective remedies. All of these means for the repression of manifest evils are, to a greater or less degree, effective. They may accomplish something, though not all, and are good, or at all events, worthy of an earnest trial as far as they go. But the real causes of those characteristics which we blame in our laws lie beyond the reach of such artificial modes of correction. They are found in our own national character and in the stage of social development we have reached. We feel, in a form modified by the peculiarities of our situation and circumstances, the influence of a wave of so-called socialism that is passing over the civilized world. It is absolutely inevitable that it should find expression in our laws, because our laws reflect the prevailing convictions and desires of the communities to which they apply. Nor is this fact due to any preponderating influence of the ignorant and uneducated, directly or indirectly, upon our law makers. The spirit of socialism is one that is created and fostered as much, or more, from above as from below. It springs, primarily, from the enlargement of the sympathies, the increased desire to relieve suffering and want, the benevolence, the altruistic spirit that evolution and modern conditions have developed among the ever increasing class of the well-to-do in an age of increasing wealth and prosperity. The exponents of the extreme doctrines of socialism are found, not among the toiling masses, but among authors and students and theorists. The preachers of the doctrine of discontent may be met among the educated, the intelligent and well-intentioned, quite as often as among the self-seekers and the demagogues. Hence the laws that unduly extend the power of the state; that viciously restrict individual action; that meddle only to mar, are quite as often the result of educated as of uneducated ignorance. The class legislation that is intended to curtail supposed privileges but

which, actually, confers more oppressive privileges upon the class it seeks to relieve, takes its origin less frequently from the direct efforts of those who are expected to benefit by it, than from the zeal of others who have persuaded themselves that the withholding of the supposed benefit is the withholding of a right. We must accept the fact, then, that if our laws are mistaken, or defective, or unwise in some of their conspicuous general tendencies, it is because public opinion, formed by discussion, made up of a thousand influences and counter-influences, is itself at fault in dealing with the problems it has to solve; it is because the resultant that determines its drift tends to give it wrong direction, and we must look only to the gradual change which continued discussion and experience, that great, silent teacher, will bring about, to correct its course and avoid the evils of which we are now conscious and against which we sound a warning.

And as to the second count brought against our legislation, namely, that it is made to meet present needs with too little appreciation of all its consequences; that it is not framed on scientific principles or as the result of expert study; while it may, indeed, be often defective; while it is the very object of this Association to correct and improve it in those respects in which our profession and experience enable us to speak with authority—yet legislating to meet the mischief of to-day, to correct evil as it arises, is the very genius and spirit of the lawmaking of the English-speaking race. Blackstone's elementary rule of statutory interpretation recognizes this when it instructs us, first, to consider the mischief and then the remedy which the law was intended to apply. It is the instinct of our blood, to which we largely owe the preservation of our institutions and our form of government, to deal with facts and not theories, not to wander from the case at hand, to do the best we can for the present and not attempt too closely to anticipate the uncertainties of the future. And the result is our justification. Our legislation may be said to rest upon the homely principle of "cut and try." This may lead to many errors, but under no

system are errors, on the whole, more sure to be corrected. Too many laws are a bad thing, impracticable laws are a bad thing, mistaken and foolish laws are a bad thing. But when laws which, for any of these reasons, are bad, creep into our statute books, some become obsolete and are swept away by the periodic revision that necessity imposes in all the States, some are corrected by the same means, others are directly repealed or amended when the occasion for doing so becomes apparent. One of the former Presidents of this Association, in his able and eloquent annual address a few years ago, adduced as an example of the weakness and inadequacy of our legislative system, its alleged failure and helplessness in dealing with the intricate subject of taxation—due, as he argued, to the want of legislators properly instructed in the weighty business of legislation, and the absence of any serious inquiry into the real nature of the difficulty with the view of establishing legislation upon a more enlightened basis in accordance with the principles of human nature and the teachings of economic science.

But where are we to find a scientifically instructed body of legislators? It could not be composed of selected and accomplished theorists. They never agree in their writings; they would never agree in the work of practical legislation. As it is, we have men who fairly represent the average sense of the community. They have the benefit of all the views that can be urged, scientific and unscientific. They deal, as best they can, with the concrete problem of raising a yearly revenue. Experience teaches that some things are practicable and others not. And out of numberless trials and numberless mistakes, the result is that what is just and practicable is ascertained, here one measure and there another which is productive of revenue without imposing unjust and unequal burdens, and I venture to affirm that, as a final result, the system of taxation, which is in the course of evolution and may be gathered from the laws of all our States, taken as a whole, with all its errors and all its deficiencies, is slowly advancing

towards greater efficiency and better results, and promises to reach, at last, a solution of that most difficult of all economic problems—the equitable collection of the revenues necessary for the support of the State.

And what is true of this subject is true of others. Much of our legislation is already admirable. The noble provisions for education, the laws for the preservation of public health, the laws in the interest of decency and morality, those for the repression of crime and the reform of the criminal, for the relief of the helpless and the beneficent work of charity, form a body of legislative enactment worthy of the highest civilization and the mark of an enlightened people. It could not have emanated from legislators, who, as a whole, were not faithful, able and animated by genuine zeal for the public good. There is nothing more injurious to the public service or a proper regard for the duties of citizenship than the constant and indiscriminate depreciation of those who, as legislators or in other capacities, hold public office. It confounds the good with the bad. It ceases to be salutary criticism, because just criticism is constantly mingled with calumny. It discourages honesty and fidelity, because honesty and fidelity are not distinguished in the general condemnation from dishonesty and corruption.

And where there is so much that is good in our laws, it is a perfect assurance that they can be made better—not by revolutionary methods—not by rashly tampering with the Constitutions that are the foundations upon which our system of government rests, but by removing the particular evil that can be reached by statutory amendment, by improving what it is practicable to improve, by confining ourselves to definite aims and narrow fields, and preserving, in all efforts at reform, the conservatism that is the natural outgrowth of our professional habits and experience.

No right-feeling man or woman will deprecate the sentiment that holds corruption in abhorrence and exacts the highest standard of fidelity and rectitude from public servants.

The community that tolerates vice or evil of any kind without a protest is decadent, and the community that is satisfied with mediocrity has ceased to progress. But indignation at iniquity, or impatience with ignorance and stupidity, should not habitually divert our attention from what is good and admirable. So much has been said and written among those interested in legislative reform in condemnation of the workings of our legislative system, that it is just that the commendation that is their due should be uttered in behalf both of our laws and our legislators.

Our system of government and the administration of our laws may not be perfect, but, under them, a great people have enjoyed a degree of liberty, security and happiness that the world has never elsewhere seen since civilization began. We may labor, each according to his opportunities and ability, to make them better, but we do so without losing our belief in their excellence or our faith in their permanency. They embody the wisdom of our forefathers, the experience of ages. We have prospered under them in the past, they have met the conditions of our wonderful growth, and, as that growth expands in new directions, they will be found adequate to meet the conditions of the future.

As it is our privilege to study and our desire to improve them, so it is our peculiar duty to inspire, by word and example, respect for our country's laws and an appreciation of the inestimable blessing of our country's government.



## THE INSULAR CASES.

BY

CHARLES E. LITTLEFIELD,  
OF ROCKLAND, MAINE.

*Mr. President and Gentlemen of the American Bar Association :*

I desire to express in a word my profound appreciation of the great compliment which I received in the invitation to deliver this address.

This year of our Lord has been one of unusual significance to the legal profession. It has seen universal and spontaneous homage paid by bench, and bar, and country to "the great Chief Justice," "the greatest judge in the language." He is conceded to be the greatest authority upon the construction of the Constitution that ever adorned the most august tribunal known to our institutions. All agree that, more than any other man realizing that our "Constitution is formed for ages to come, and is designed to approach immortality as nearly as human institutions can approach," he expounded and developed it, with scientific accuracy upon enduring lines, buttressed by accurate reasoning, "establishing those sure and solid principles of government on which our constitutional system rests." The Supreme Court of the United States suspended its sittings in order that through its distinguished chief it might witness "to the immortality of the fame of this sweet and virtuous soul, whose powers were so admirable and the results of their exercise of such transcendent importance." It is certainly an interesting and significant fact, that at the same term during which these ever memorable exercises occurred, that court rendered a judgment by a disagreeing majority of one, overruling a case which had withstood unimpaired the assaults of time for eighty years. A case decided by the same tribunal by a unanimous

court, whose reasons therefor were luminously stated with his usual accuracy and ability by the incomparable Marshall. A judgment clearly inconsistent with other judgments rendered on the same day, without any opinion of the court upon which to rest, endeavored to be sustained by the opinions of different justices, in irreconcilable conflict with each other. A judgment involving fundamental constitutional questions of more vital and transcendent importance than any hitherto determined.

The Insular Cases, in the manner in which the results were reached, the incongruity of the results, and the variety of inconsistent views expressed by the different members of the court, are, I believe, without a parallel in our judicial history. It is unfortunate that the cases could not have been determined with such a preponderance of consistent opinion as to have satisfied the profession and the country that the conclusions were likely to be adhered to by the court. Until some reasonable consistency and unanimity of opinion is reached by the court upon these questions, we can hardly expect their conclusions to be final and beyond revision. A statement of the cases is essential to show what was actually decided. The cases were: *DeLima vs. Bidwell*; *Downes vs. Bidwell*; *Huus vs. New York and Porto Rico Steamship Company*; *Goetze vs. United States*; *Crossman vs. United States*; and *Armstrong vs. United States*.

In *DeLima vs. Bidwell* the question was whether after the cession of Porto Rico to the United States, by the treaty of Paris, it remained a foreign country within the meaning of the tariff laws the action being brought to recover duties collected prior to the passage of the Foraker act, under the Dingley act, which provided that "there shall be levied and collected and paid upon all articles imported from *foreign countries*," etc., certain duties therein specified. The court held "that at the time these duties were levied Porto Rico was not a foreign country within the meaning of the tariff laws but a territory of the United States, that the duties were illegally exacted and that the plaintiffs are entitled to recover them back."

Mr. Justice Brown delivered the opinion of the court, and with him concurred Mr. Chief Justice Fuller, Mr. Justice Harlan, Mr. Justice Brewer and Mr. Justice Peckham. Mr. Justice McKenna dissented, and drew an opinion in which Mr. Justice Shiras and Mr. Justice White concurred, and Mr. Justice Gray dissented in a short note. *Downes vs. Bidwell* was an action to recover duties collected under the Foraker act, upon "merchandise coming into the United States from Porto Rico," to use the peculiar and somewhat ungainly language of that act. It involved the constitutionality of that part of the act, and five members of the court concurred in a judgment holding that part of the act constitutional. Mr. Justice Brown announced the conclusion and judgment of the court, affirming the judgment of the court below. He did not pronounce its opinion, but rendered one of his own. Mr. Justice White, with whom concurred Mr. Justice Shiras and Mr. Justice McKenna, rendered an opinion uniting in the judgment of affirmance. Referring to Mr. Justice Brown's opinion, he stated that the reasons which caused him to concur in the result "are different from, if not in conflict with those expressed in that opinion, if its meaning is by me not misconceived." Mr. Justice Gray concurred in substance with the opinion of Mr. Justice White, but summed up so as to "indicate" his "position in other cases now standing for judgment."

Technically speaking, there is no opinion of the court to sustain the judgment. Mr. Chief Justice Fuller, with whom concurred Mr. Justice Harlan, Mr. Justice Brewer, and Mr. Justice Peckham, delivered a dissenting opinion, and Mr. Justice Harlan delivered a dissenting opinion giving some additional considerations. *Dooley vs. United States* was a suit to recover duties collected upon goods exported from New York to Porto Rico, partly before and partly after the ratifications of the treaty, but in every instance prior to the passage of the Foraker act. As to the duties collected prior to the ratifications of the treaty the court were unanimous in holding that

they were legally exacted "under the war power." The same Justices who concurred in the *DeLima* case concurred in this as to the duties collected after ratifications. Mr. Justice Brown delivered the opinion of the court, holding that the "authority of the President as Commander in Chief to exact duties upon imports from the United States ceased with the ratification of the treaty of peace, and her right to the free entry of goods from the ports of the United States continued until Congress should constitutionally legislate upon the subject." The Justices who dissented in the *DeLima* case dissented in this. Mr. Justice White delivered the dissenting opinion. *Huus vs. New York and Porto Rico Steamship Company* raised the question as to whether trade between the United States and Porto Rico was, after the passage of the Foraker act, "coasting trade," and the court were unanimous in holding that it was. *Goetze vs. United States* and *Crossman vs. United States* involved the questions determined in the *DeLima* case, and were controlled by that case. *Armstrong vs. United States* was controlled by the *Dooley* case. Two cases argued at the same term remain undecided. *Fourteen Diamond Rings vs. United States*. Rings brought from the Philippines into the United States after the ratifications of the treaty of peace, without the payment of duty, and seized for non-payment, and *Dooley vs. United States*, raising the validity of duties collected upon goods "coming into Porto Rico from the United States" after the passage of the Foraker act.

In the unsettled condition of the court it is hardly worth while to speculate as to the results in these cases. The Diamond Rings case no doubt depends upon what the court holds the status of the Philippines to be, whether civil or military. If the *Dooley* case is controlled by the *Downes* case there would seem to be no good reason why it should not have been decided. That it was not, raises the inference that it would have been decided adversely to the government, or that there was a greater difference of opinion than usual with reference to it. Mr. Justice Gray is the only one who indicates

his "position" in this case. In his opinion in the *Downes* case he says, after referring to duties "established on merchandise and articles going into Porto Rico from the United States, or coming into the United States from Porto Rico," as temporary;

"The system of duties [clearly including imports and exports] temporarily established by that act during the transition period, was within the authority of Congress under the Constitution of the United States."

No other member of the majority is prepared to indicate that Porto Rico while a foreign territory as to the revenue clause of the Constitution, so that imports therefrom are dutiable, is not also foreign within the meaning of that other clause of the Constitution relating to revenue, which reads, "No Tax or Duty shall be laid on Articles exported from any State." The converse must be true as to goods going the other way, and they would be exports from some State to "such island" and hence obnoxious to this clause. Apprehending this, perhaps, Mr. Justice White in the same case always follows the ungainly language of the act in describing this commerce.

Just how goods "coming into Porto Rico from the United States" can be other than exports from some State we cannot well see, but with these opinions before us it will not do to say that it will not be so held, and some inconsistent reasoning given therefor. Upon this point the language of Mr. Justice Miller in *Woodruff vs. Parham*, 8 Wall. 123, is suggestive:

"Is the word 'impost' here used intended to confer upon Congress a distinct power to levy a tax upon all goods or merchandise carried from one State into another? Or is the power limited to duties on foreign imports? If the former be intended, then the power conferred is curiously rendered nugatory by the subsequent clause of the 9th section, which declares that no tax shall be laid on articles exported from any State, for no article can be imported from one State into another which is not, at the same time, exported from the former."

It is difficult to see how refusing to call a duty an export duty, when it is in fact such, can change its character.

## THE DOWNES CASE.

The *Downes* case is the only one that passes upon questions that apply to permanent conditions, or that attempts to furnish a foundation for a permanent government policy. All that is decided by that case is that as to "merchandise coming into the United States from Porto Rico" Congress is not restrained by the Constitution in imposing a discriminating tariff against Porto Rico. In other words, as to imports from Porto Rico Congress can constitutionally discriminate. It may be said that the case involves other absolute powers, but that is as far as the case itself goes. Whether all the other constitutional restrictions apply, and if not, which apply, remains to be determined. Four of the majority (and I include Mr. Justice Gray, as he says that in "substance" he agrees with the opinion of Mr. Justice White) are evidently appalled by the enormity of the argument that would deprive Porto Rico of all the constitutional guarantees as to civil rights. They repeatedly so declare in the opinion of Mr. Justice White, as though fearful that it might be inferred that they entertained that view, as appears from the following excerpts:

"Hence it is that wherever a power is given by the Constitution, and there is a limitation imposed on the authority, such restriction operates upon and confines every action on the subject within its constitutional limits."

\* \* \* \* \*

"As Congress in governing the territories is subject to the Constitution, it results that all the limitations of the Constitution which are applicable to Congress in exercising this authority necessarily limit its power on this subject. It follows, also, that every provision of the Constitution which is applicable to the territories is also controlling therein." \* \*

"From these conceded propositions it follows that Congress in legislating for Porto Rico was only empowered to act within the Constitution and subject to its applicable limitations, and that every provision of the Constitution which applied to a country situated as was that island, was potential in Porto Rico."

\* \* \* \* \*

"Undoubtedly there are general prohibitions in the Constitution in favor of the liberty and property of the citizens, which are not mere regulations as to the form and manner in which a conceded power may be exercised, but which are an absolute denial of all authority under any circumstances or conditions to do particular acts. In the nature of things, limitations of this character cannot be under any circumstances transcended, because of the complete absence of power." \* \* \*

"The doctrine that those absolute withdrawals of power which the Constitution has made in favor of human liberty are applicable to every condition or status has been clearly pointed out by this court \* \* \*

"There is in reason, then, no room in this case to contend that Congress can destroy the liberties of the people of Porto Rico by exercising in their regard powers against freedom and justice, which the Constitution has absolutely denied." \* \* \*

"The fact that the act directs the officers to swear to support the Constitution does not militate against this view, for, as I have conceded, whether the island be incorporated or not, the applicable provisions of the Constitution are there in force."

It is unfortunate that Mr. Justice White, with his keen appreciation of the sacredness of constitutional rights, in order to sustain his conclusions in this case was obliged to use a train of reasoning that manifestly kept pressing upon him the idea of despotic power, and thus required this continual negation. It required him to "protest too much." Nevertheless just what will be held "applicable provisions" we do not know, but as the four dissenting Justices hold that the Constitution now applies to Porto Rico to that extent, we can feel confident that at least as to applicable provisions eight Justices will concur. Mr. Justice Brown is not as sensitive as his brethren, who agree with him as to *what* in the *Downes* case, but disagree as to *how*. He comes the nearest to the contention of the government, citing with approval:

"Doubtless Congress, in legislating for the territories, would be subject to those fundamental limitations in favor of personal rights which are formulated in the Constitution and its amendments, but those limitations would exist rather by inference and the general spirit of the Constitution, from which Congress

derives all its powers, than by any express and direct application of its provisions."

He says:

"To sustain the judgment in the case under consideration, it by no means becomes necessary to show that none of the articles of the Constitution apply to the Island of Porto Rico. There is a clear distinction between such prohibitions as go to the very root of the power of Congress to act at all, irrespective of time or place, and such as are operative only 'throughout the United States' or among the several States."

He proposes to be cautious:

"We do not wish, however, to be understood as expressing an opinion how far the bill of rights contained in the first eight amendments is of general and how far of local application."

Again:

"There are certain principles of natural justice inherent in the Anglo-Saxon character, which need no expression in constitutions or statutes to give them effect or to secure dependencies against legislation manifestly hostile to their real interests." \* \* "We suggest, without intending to decide, that there may be a distinction between certain natural rights enforced in the Constitution by prohibitions against interference with them, and what may be termed artificial or remedial rights which are peculiar to our own system of jurisprudence." \* \* "It does not follow that in the meantime, awaiting that decision, the people are in the matter of personal rights unprotected by the provisions of our Constitution and subject to the merely arbitrary control of Congress."

"We do not desire, however, to anticipate the difficulties which would naturally arise in this connection, but merely to disclaim any intention to hold that the inhabitants of these territories are subject to an unrestrained power on the part of Congress to deal with them upon the theory that they have no rights which it is bound to respect."

He has certainly left the door sufficiently open. Just how "certain principles of natural justice" could be used in court to invalidate an act of Congress, unrestrained by any constitutional provision, we are not informed. The inconsistency on



the part of Mr. Justice Brown in the *DeLima* and *Downes* cases is obvious, and tends to impair our confidence in his conclusions. On the other hand the consistency of the dissenting Justices in the *Downes* case and the manner in which their reasoning without distortion answers the various conditions, tend to establish its correctness. It is true that magazine and newspaper editors, who feel bound to sustain the conclusions, say, to quote one of them: "They appear to us entirely consistent with each other, and entirely clear in themselves." This is not an assertion that they are "consistent," but that "they appear to us." On this point I will assume that the court knows at least as much as anyone else, and let it speak for itself.

Mr. Justice Gray in his note in the *DeLima* case, dissents because, "It appears to me irreconcilable \* \* \* with the opinions of the majority of the Justices in the case, this day decided, of *Downes vs. Bidwell*." Mr. Justice White in his dissenting opinion in the *Dooley* case, in which Mr. Justice Gray, Mr. Justice Shiras, and Mr. Justice McKenna concurred, stated the inconsistency thus:

"Now, this court has just decided in *Downes vs. Bidwell* that, despite the treaty of cession, Porto Rico remained in a position where Congress could impose a tariff duty on goods coming from that island into the United States. If, however, it remained in that position, how then can it be now declared that it ceased to be in that relation because it was no longer foreign country within the meaning of the tariff laws? \* \* \*"

The fact that somebody does not see the inconsistency makes it none the less obvious. The inconsistency of itself does not tend to demonstrate which conclusion was wrong, and is only material as tending to detract from the weight to be given to the reasoning generally. Is the conclusion in the *Downes* case sustained by such reason and authority as to justify us in assuming that it is the deliberate and final judgment of the court upon this great question; that it has laid down the rule which will govern the Republic for all time, so that although new territory

may be acquired, the Republic will not expand, but will simply accumulate property? It seems to me more than doubtful.

Mr. Justice Brown holds that under that provision of the Constitution which declares that "all duties, imposts and excises shall be uniform throughout the United States," the term "United States" is confined to the several states, and that the territories and the District of Columbia are not "states" and not included therein, and therefore Porto Rico, being a territory, is not protected thereby.

#### HEPBURN *vs.* ELLZEY.

The earliest case upon which he relies is *Hepburn vs. Ellzey*, 2 Cranch 445, where it was held that under the clause of the Constitution limiting the jurisdiction of the courts of the United States to controversies between citizens of the different states, a citizen of the District of Columbia could not maintain an action in the Circuit Court of the United States. It is true that Mr. Chief Justice Marshall there said :

"It becomes necessary to inquire whether Columbia is a state in the sense of that instrument. The result of that examination is a conviction that the members of the American confederacy only are the states contemplated in the constitution."

It is also true that Mr. Chief Justice Marshall, recognizing the distinction between the term "state" as used in that provision, and the "United States" said, in speaking of the same man that he had just held was not a citizen of a "state":

"It is true that as *citizens of the United States*, and of that particular district which is subject to the jurisdiction of Congress, it is extraordinary that the courts of the United States, which are open to aliens, and to the citizens of every state in the union, should be closed upon *them*. But this is a subject for legislative, not for judicial consideration."

It seems that Marshall could see how a man could be within the "United States" and not be in a "state." It will be observed that the learned Justice does not quote this remark.

An examination of the *Downes* case requires the consideration of at least four great leading cases: *Loughborough vs. Blake*, 5 Wheat. 317, 1820; *Insurance Co. vs. Canter*, 1 Pet. 511, 1828; *Cross vs. Harrison*, 16 How. 164, 1853; and *Dred Scott vs. Sandford*, 19 How. 393, 1856.

In the first three cases the court were unanimous, and in the last case as to the proposition here involved there was no dissent, and as to that proposition the authority of these cases prior to the *Downes* case had never been denied or questioned. One is directly and two are practically overruled by a disagreeing majority of one.

#### LOUGHBOROUGH vs. BLAKE.

*Loughborough vs. Blake* is directly in point. The provision of the Constitution in question was considered by the court, and Mr. Chief Justice Marshall delivered the unanimous opinion in which he said:

"The power, then, to lay and collect duties, imposts and excises, may be exercised, and must be exercised throughout the United States. Does this term designate the whole, or any particular portion of the American empire? Certainly this question can admit of but one answer. It is the name given to our great republic, which is composed of states and territories. The District of Columbia, or the territory west of the Missouri, is not less within the United States, than Maryland or Pennsylvania; and it is not less necessary, on the principles of our constitution, that uniformity in the imposition of imposts, duties and excises should be observed in the one, than in the other."

Mr. Justice Brown says these are "certain observations which have occasioned some embarrassment in other cases," but I submit in none so great as in the *Downes* case. The extraordinary ingenuity manifested in this case by the earnest effort to escape from that authority constitutes one of its most striking features. The learned Attorney General examined the original files, and found that it was uncertain whether the suit related to "one black gelding about nine years old" or

"to ten cows and ten oxen," and therefore it was "scarcely more than a moot case." Upon an analysis of the case he found that "the point argued in the case was whether the District of Columbia *\*could* be taxed, seeing that it had no representative in Congress. *\*That* was the question argued and *\*that* is what was decided." Although these arguments were presented with all of his accustomed vigor and ability, he does not appear to have succeeded in convincing anybody but himself, as these contentions were not even alluded to by any Justice. Mr. Justice Brown is entitled to the credit of introducing in an opinion for the first time, a new method of disposing of that case. I do not say he discovered it, for it is true that there were statesmen who in groping about for a way of escape from Marshall's logic, had blazed out this path. He admits that the conclusion is correct, "so far at least as it applies to the District of Columbia." He cannot quite get up to denying the case *in toto*. He then gives the reason why he concedes so much :

"This district had been a part of the States of Maryland and Virginia. It had been subject to the Constitution, and was a part of the United States. The Constitution had attached to it irrevocably. There are steps which can never be taken backward. The tie that bound the States of Maryland and Virginia to the Constitution could not be dissolved, without at least the consent of the Federal and State governments to a formal separation. The mere cession of the District of Columbia to the Federal government relinquished the authority of the States, but it did not take it out of the United States, or from under the ægis of the Constitution."

This reasoning is inconsistent with the theory upon which the whole case is based, *i. e.*, that the "United States" is composed only of "states." We have here a part of the "United States" which is not a state. Therefore, it is quite possible for the term "United States" to include territory outside of the states. "Neither party," he says, "had ever

\* Wherever words are printed in *italics*, only those in which an \* is used, are italicized in the original.

consented to that construction of the cession." Inasmuch as the question was never even dreamed of until invoked by the exigencies of this case, it is quite evident that it was not an element of "the cession."

Again, "if before the District was set off, Congress had passed an unconstitutional act affecting its inhabitants, it would have been void. If done after the District was created, it would have been equally void; in other words, Congress could not do indirectly, by carving out the District, what it could not do directly." With all due respect to the learned Justice, this illustration suggests a contingency that is impossible. Congress desires to affect certain persons by unconstitutional legislation who now live in a State. This it cannot do. Therefore, it creates the District of Columbia out of the territory on which they live in order that it may legislate with reference to them unrestrained by the Constitution. Could anything be more finical? He says:

"The District still remained a part of the United States, protected by the Constitution. Indeed, it would have been a fanciful construction to hold that territory which had been once a part of the United States ceased to be such by being ceded directly to the Federal government."

Therefore he says the conclusion was right in *Loughborough vs. Blake*, but the reasons were wrong, mere *dicta*.

This appears to be the adhesive feature of the Constitution. Like a way appendant or appurtenant, or certain covenants in a deed, the Constitution runs with the land, and is inseparably united thereto. The proposition has the merit of novelty. It is submitted that no sufficient reason is given for its existence, and that it rests upon the unsupported assertion of the learned Justice that it is so. He does not inform us how, but it is.

If this adhesive proposition is sound, what becomes of the decision in *Hepburn vs. Ellzey*? Prior to the creation of the District of Columbia it is clear that any citizen of either State living in the territory afterward made the District, had the constitutional right to bring an action in the Circuit Court of

the United States. Being a constitutional right it "had attached to it irrevocably." Therefore no power could deprive a citizen of the District of that right. It seems that Mr. Chief Justice Marshall, notwithstanding all this, disconnected the citizen in that case from the Constitution. Perhaps he had not heard of this theory, or can it be that only a part of the Constitution adheres? Only so much as is necessary to escape *Loughborough vs. Blake*? This may be the case, in view of the fact that in 1897 in *Hooe vs. Jamieson*, 166 U. S. 395, a case turning on the precise point decided in *Hepburn vs. Ellzey*, the court still persisted in disconnecting a citizen of the District of Columbia from the Constitution, and affirmed *Hepburn vs. Ellzey*, and Mr. Justice Brown concurred in the opinion. Moreover in the *Downes* opinion he cites with approval those cases for the purpose of showing that the District of Columbia is not a "state," and, therefore, no part of the United States, and then on the next page asks us to believe that having once been a part "it still remained a part of the United States." Is not this asking too much, and will not some new and more universally operating theory have to be evolved before *Loughborough vs. Blake* is disposed of?

Mr. Justice White in his opinion undertakes with great diligence, research and ability to establish the doctrine that "the treaty-making power cannot incorporate territory into the United States without the express or implied assent of Congress," and that "Congress is vested with the right to determine when incorporation arises." His idea is that undesirable territory otherwise would be "without the consent of the American people as expressed by Congress, and without any hope of relief, indissolubly made a part of our common country." In other words once incorporated territory cannot afterwards be alienated or disposed of. His object undoubtedly is to establish a condition during which "when the unfitness of particular territory for incorporation is demonstrated, the occupation will terminate," that is, during which it can be disposed of. He holds that Porto Rico has not been "incorporated,"

and, therefore, the uniformity clause does not apply. Mr. Justice Harlan most pertinently suggests: "What is meant by such incorporation we are not fully informed, nor are we instructed as to the precise mode in which it is to be accomplished." Mr. Justice White's opinion is unfortunately lacking in perspicuity upon both of these points. He repudiates Mr. Justice Brown's method of disposing of *Loughborough vs. Blake*. He cites that case to support the following proposition:

"But the power just referred to, as well as the qualification of uniformity, restrains Congress from imposing an impost duty on goods coming into the United States from a territory which has been incorporated into and forms a part of the United States."

Assuming that prior to 1820 the District of Columbia, in the sense in which he uses that term, had been "incorporated into" the United States, the case from his view would clearly apply. He fails to inform us when or how it was so "incorporated," but he undoubtedly assumes it to be a fact. He then makes this criticism of Mr. Justice Brown's treatment of that case, saying:

"To question the principle above stated on the assumption that the rulings on this subject of Mr. Chief Justice Marshall in *Loughborough vs. Blake* were mere *dicta* seems to me to be entirely inadmissible."

Here four of the majority Justices concede the authority of *Loughborough vs. Blake*, and it clearly controls the *Downes* case unless it can be made to appear, not assumed, that the District of Columbia had at that time been "incorporated," and no single fact is stated that it is claimed even tends to show incorporation. In the absence of such showing the decision in the *Downes* case should be reversed. If the understanding of Congress were entitled to control, which fortunately it is not, it clearly had not been "incorporated," as in 1871 Congress passed an act extending the Constitution to the District, an idle ceremony if it had been "incorporated" into

"the United States" for fifty years. To be sure, Mr. Justice Brown says this was done "to put at rest all doubts regarding the applicability of the Constitution," but our attention is not directed to anything in the act that indicates such a purpose, or in the facts connected with its passage. If this act had no real significance, how much significance is to be attached to similar legislation in connection with the territories, which is relied upon to answer the case that holds that the territories are a part of the United States, and that the Constitution was operative therein without the aid of legislation? The inconsistencies of the court lead them into difficulties whichever way they turn. It is submitted that the majority have not succeeded in escaping from the "embarrassment" of *Loughborough vs. Blake*.

#### INSURANCE CO. *vs.* CANTER.

The *Canter* case, which turned upon the power of the territorial legislature to create a court exercising admiralty jurisdiction, is erroneously supposed to establish the fact that the territories are not a part of the United States. This case is misquoted and misconceived. Mr. Justice Brown states that Mr. Chief Justice Marshall held "that territory ceded by treaty becomes a part of the nation to which it is annexed, either on the terms stipulated in the treaty of cession, or upon such as its new master shall impose." The context shows that this is a misapprehension, as Mr. Chief Justice Marshall was simply stating a general rule of international law as to which there is no question, and not the law of that case. He said:

"*The usage of the world is*, if a nation be not entirely subdued, to consider the holding of conquered territory as a mere military occupation, until its fate shall be determined at the treaty of peace. If it be ceded by the treaty, the acquisition is confirmed, and the ceded territory become a part of the nation to which it is annexed; either on the terms stipulated in the treaty of cession, or on such as its new master shall impose."

That he did not state it as the law of that case is clear also from the fact that immediately following a full statement of



these general principles, he refers to the fact that the treaty provided that "as soon as may be consistent with the principles of the Federal Constitution," the inhabitants of Florida "shall be incorporated in the Union of the United States; \* \* and admitted to the enjoyment of the privileges, rights and immunities of the citizens of the United States." Note the language, "*shall be incorporated,*" "*and admitted.*" Apparently all *to be done*, not a fact accomplished by the cession. The act of Congress creating the territorial legislature enumerated certain constitutional privileges and immunities which it conferred upon Florida. Mr. Whipple, in his argument, insisted that there was no occasion for this enumeration "if the inhabitants of Florida were entitled to them upon the act of cession," and Mr. Justice Johnson, in his opinion in the case in the Circuit Court, took the same view. Notwithstanding all this "the great Judge," speaking for a unanimous court, denied this contention and said:

"This treaty is the law of the land, *and admits the inhabitants of Florida* to the enjoyment of the privileges, rights and immunities of the citizens of the United States."

Mark it, not the act of Congress, as was urged by counsel and Mr. Justice Johnson, but the "*treaty* \* \* *admits* the inhabitants of Florida to the enjoyment of the privileges, rights and immunities of the citizens of the United States." The fact that privileges and immunities were conferred by act of Congress is not even mentioned. When the inhabitants had all the "privileges, rights and immunities of citizens" they were clearly citizens, and if Mr. Chief Justice Marshall is correct they became such *by the act of cession*, and the territory was also "incorporated in the Union" by the same act, without the aid or consent of Congress. He expressly declines to pass upon the question as to whether "its new master" can "impose" terms, as in the next sentence he says:

"It is unnecessary to inquire, whether this is not their condition, independent of stipulation."

If "independent of stipulation" they acquired these constitutional rights, certainly if Mr. Justice Brown's adhesive theory is sound they could not be deprived of them by any terms "such as its new master shall impose," and it was not so held. Mr. Whipple and Mr. Webster both contended that the right of representation was the supreme test of incorporation and citizenship. Mr. Whipple said: "If the Constitution is in force in Florida, why is it not represented in Congress?" Mr. Webster said: "What is Florida? It is no part of the United States. How can it be? How is it represented?" This is Webster's only reason, and this remark is cited by Mr. Justice Brown, as well as by Mr. Justice McKenna, in the *DeLima* case, apparently as entitled to weight. It may be remarked in passing that at the most this was merely Webster's *argument* in the discharge of his professional duty, bound to make the most effective presentation of his client's case, and does not necessarily indicate his own opinion. The "great Judge," clearly apprehended, however, the broad distinction which exists between civil rights and political rights, and that one by no means involves the other, as he denied this contention, and held that "They do not, however, participate in political power; they do not share in the government, till Florida shall become a State." He had just held that the inhabitants had all the "privileges and immunities" of citizens. Therefore representation was not one of them. The right of representation necessarily stands or falls with the right to the elective franchise, as they who cannot vote cannot be said to be represented. That citizenship does not involve the right of suffrage is well settled.

In *Minor vs. Happersett*, 21 Wall. 162, 1875, the Court held:

The word "citizen" in the Constitution of the United States conveys the idea of membership of a nation and nothing more. Women are citizens of the United States. The right of suffrage is not one of the necessary privileges of a citizen of the United States. The United States Constitution did not

add the right of suffrage to the privileges and immunities of citizenship as they existed at the time the Constitution was adopted. Suffrage was not coextensive with the citizenship of the States at the time of its adoption. It was not intended to make all citizens of the United States voters. The Constitution of the United States *does not confer the right of suffrage upon anyone.*

(*United States vs. Cruikshank*, 92 U. S. 542; *Murphy vs. Ramsey*, 114 U. S. 15.)

What becomes then of Webster's only test? When his sole reason fails, how can his conclusion be sustained? There is much confusion of thought, and many erroneous conclusions are reached, by the failure to bear in mind this clear distinction. I notice that the advocates of legislative absolutism, while they do not deny this distinction, fail to make conspicuous, in the discussion of the insular questions, that the *only* question is one of *civil* and not of *political* rights. It is undoubtedly the popular impression that to hold that the Porto Rican, or the Filipino, is a citizen of the United States, is at once to vest him with the right of suffrage, and create a disturbing element in our political economy, when nothing could be further from the fact. The elective franchise is popularly supposed to be the distinguishing badge of citizenship, but it is not even one of the elements of citizenship of the United States. Voting, representation, and the consent of the governed, are not guaranteed by the Constitution of the United States, or involved in this discussion. This misapprehension, no doubt, contributes in a large degree to whatever popular support absolutism may have. It is akin, though much more general, to that other idea that so long as these possessions can be held as colonies, "territory appurtenant and belonging to the United States," "disembodied shades," in some way the possibility of states being created out of them is made more remote. But the fact is that the Constitution requires no intermediary, preparatory or territorial stage for an intending state. It is equally as competent to create one out of Porto Rico as out of Oklahoma. Given a President, Senate,

and House of Representatives of the same party, and if desired a "disembodied shade," by a mere act of Congress, becomes one or more sovereign states, the number limited only by political exigency. If our Democratic friends obtained power, and desired to intrench themselves therein on the line of free trade against protection, how long would it take them to bespangle the Orient with states? These are pleasing but inherent contingencies.

Mr. Justice Brown seems to derive aid and comfort from the opinion of Mr. Justice Johnson in the *Canter* case in the Circuit Court, as does Mr. Justice McKenna in the *DeLima* case. Two propositions are cited from his opinion, and thought to be significant:

First: the fanciful distinction between "territory acquired from the aborigines," also "by the establishment of a disputed line," and that which "was previously subject to the jurisdiction of another sovereign," the Constitution immediately attaching, it is supposed, to one and not to the other.

Second: the fact that certain "privileges and immunities" were "enumerated in the Act of Congress," showing that they were not acquired by treaty.

While the court reached the same conclusion as did Mr. Justice Johnson, his first proposition was entirely ignored, and his second, as we have seen, distinctly denied by the court. Inasmuch as Mr. Justice Johnson did not file any separate opinion we must infer that he was satisfied with the reasoning of the court, and conceded his own reasoning to be wrong. Under these circumstances how can his opinion as to these points be relied on as an authority? Mr. Justice Brown states that the result of the *Canter* case is that Congress when authorizing the creation of a territorial court, "must act independently of the Constitution, and upon territory which is not part of the United States within the meaning of the Constitution." He also says: "But if they be a part of the United States it is difficult to see how Congress could create courts in such territories, except under the judicial clause of the Constitution."

With all due respect to the learned Justice, I submit that no such conclusion follows from that case, that it does not even tend to establish it, and that the decision does not necessarily show that Florida either did or did not become a "part of the United States" by the act of cession.

If it became a "part of the United States" by the act of cession, it is clear that the territorial legislature could pass no valid law that would be "inconsistent with the laws and Constitution of the United States." But the act of Congress creating the territorial legislature provided that "no law shall be valid which is inconsistent with the laws and Constitution of the United States," and Mr. Chief Justice Marshall expressly held that the powers of the legislature "were *subject to the restriction* that their laws shall not be inconsistent with the laws and Constitution of the United States," so that in either case, whether by act of cession, or by act of Congress, the provisions of the Constitution equally controlled the territorial legislature. In either case, so far as the operation of the Constitution was concerned, this territory was to all legal intents and purposes a "part of the United States." It matters not how the Constitution reached the territory, so far as that case was concerned, so long as it was there. The court not only recognized the application of the Constitution by citing that provision of the act of Congress and expressly so declaring, but by holding after expressly examining that question that the judiciary clause of the Constitution *did not apply* to the territory. If the Constitution had not been operative the inquiry as to whether the judiciary clause applied to the territory would have been entirely unnecessary.

Notwithstanding the fact that Mr. Justice Brown thinks "it is difficult to see how Congress could create courts in such territories, except under the judicial clause of the Constitution," that is precisely what the "great Judge" held they could do. Instead then of holding that this territory was not a "part of the United States," the case proceeds altogether upon the theory that it was, and bound by the Constitution, but that the

power exercised was not inconsistent with any of its provisions. This analysis disposes of the reflection which is made upon the court when Mr. Justice Brown says :

"In delivering his opinion in this case Mr. Chief Justice Marshall made no reference whatever to the prior case of *Loughborough vs. Blake* (5 Wheat. 317); in which he had intimated that the territories were part of the United States."

"Intimated" is inadequate when characterizing an express declaration. He had no occasion to refer to that case, as in the opinion being rendered he had not even "intimated" either directly or indirectly the contrary. All of the territorial cases are based upon the *Canter* case, and they, therefore, have no more tendency to show that a territory is not "a part of the United States." As to this point they fall with it. My view of this case is not new, as Mr. Whipple contended for the legality of the court "to the same extent if the Constitution is, or if it is not *per se* in force in Florida."

#### CROSS vs. HARRISON.

It is submitted that *Cross vs. Harrison* is inconsistent with and is virtually overruled by the judgment in the *Downes* case. It is the only "case from the foundation of the Government" where "the revenue laws of the United States have been enforced in acquired territory without the action of the President or the consent of Congress, express or implied." After the ratification of the treaty ceding the territory of California, and before any act of Congress, the duties prescribed by the general tariff laws were collected in California, and the principal question was whether the proceeding was legal. The court sustained it, saying on the precise point in question :

"But after the ratifications of the Treaty, California became a part of the United States, or a ceded, conquered territory."

As to the precise time they are more specific :

"By the ratifications of the Treaty, California became a part of the United States. And as there is nothing differently stipu-

lated in the Treaty with respect to commerce, it became instantly bound and privileged by the laws which Congress had passed to raise a revenue from duties on imports and tonnage."

*A fortiori*, then, was it "bound and privileged" by the Constitution, the supreme law.

It was not only contended that California was not "a part of the United States," but that as no collection district had been established the duties were illegally imposed. The court answered these suggestions construing the provision of the Constitution now under consideration, saying :

"The right claimed to land foreign goods within the United States at any place out of a collection district, if allowed, would be a violation of that provision of the Constitution which enjoins that all duties, imposts and excises shall be uniform throughout the United States."

The case turned on this point, and the court felt that it had been demonstrated, as they said :

"It having been shown that the *ratifications of the Treaty* made California *a part of the United States*, and that as soon as it became so the territory became subject to the Acts which were in force to regulate foreign commerce with the United States."

The court cited with approval a letter from Secretary Buchanan, containing this statement :

"This government *de facto* will, of course, exercise no power inconsistent with the provisions of the Constitution of the United States, which is the supreme law of the land. For this reason no import duties can be levied in California on articles the growth, produce, or the manufacture of the United States, as no such duties can be imposed in any other part of our Union on the productions of California, \* \* \* for the obvious reason that California *is within the territory of the United States* \* \* \*."

This is the precise question involved here.

Bearing in mind that this was a unanimous opinion, these express declarations would seem to justify Mr. Justice White's

cautious statement that the "opinion undoubtedly expressed the thought that *by the ratification of the treaty* \* \* the territory had become a part of the United States," and would require some answer before a majority of one would be justified in rendering a judgment inconsistent therewith.

Mr. Justice Brown's method is to be commended for its ease. While he cites the case with approval in the *DeLima* case, in the *Downes* case he does not even refer to it. He simply ignores it. Mr. Justice White sees that this case is utterly inconsistent with his theory that a territory cannot become a part of the United States without "the express or implied assent of Congress," and makes an earnest effort to reconcile it.

He does not go so far as to assert that the fact that the treaty "accomplished the cession, *\*by changing the boundaries of the two countries,*" in other words "*\*by bringing the acquired territory within the described boundaries of the United States,*" may have had some weight, but so intimates. It cannot be soberly contended that by the simple expedient of running a line by description around a territory, the treaty-making power can make that territory a part of the United States, when by describing the process as an annexation it would be beyond their constitutional power to thus incorporate it. By indirection they would be able to easily work direction out. Of such a principle it could be well said, "I am become as a sounding brass or a tinkling cymbal." To hold that in using such language there was any purpose other than convenience of description, is to impeach the intelligence of those who were responsible for the treaty. His propositions are,

First: "After the ratification of the treaty various laws were enacted by Congress, which in effect treated the territory as acquired by the United States, and the executive officers of the Government, conceiving that these acts were an implied or express ratification of the provisions of the treaty by Congress, acted upon the assumption that the provisions of the



treaty were thus made operative, and hence incorporation had become efficacious."

Second: Inasmuch as the law contained no intimation as to ratification, and the executive officers acted before they were passed, another hypothesis was necessary. He says "that as the treaty provided for incorporation in express terms, and Congress had acted without *repudiating it*, its provisions should be at once enforced." This proposition, shorn of its rhetoric, is; First: Territory cannot be incorporated without the consent of Congress. Second: The consent may be express or implied; and, Third: It may be assumed if the treaty is not repudiated. Whatever else may be said of this, its convenient, flexible and universal character must be conceded, as no state of facts can be conceived that would be inconsistent with its application. A proposition of this character is necessary to answer *Cross vs. Harrison*.

After having stated that the treaty "included the ceded territory within the boundries of the United States, but also expressly provided for incorporation." Mr. Justice White says: "The decision of the court \* \* \* undoubtedly took the fact I have first stated into view." That is of course possible, but it is absolutely certain that the opinion does not contain a line or word that sustains the suggestion. While other treaties were discussed in the opinion and by counsel (the original briefs are not on file), there is not the slightest intimation that in this particular any distinction was made between the treaty under discussion and the other treaties. Its peculiarity as to "boundaries" and "incorporation" now so absolutely essential to a correct conclusion on the new theory, are not even mentioned, and the discussion was elaborate and exhaustive. Moreover, the treaty did not provide for immediate "incorporation in express terms," as is thought. Inasmuch as Mr. Justice White does not quote the article relating to incorporation, I give it here in connection with the similar clause in the treaties ceding Florida and Porto Rico, and in their order.

## FLORIDA TREATY. Feb. 22, 1819.

## ARTICLE VI.

"The inhabitants of the territories which His Catholic Majesty cedes to the United States by this treaty, shall be incorporated in the Union of the United States as soon as may be consistent with the principles of the Federal Constitution, and admitted to the enjoyment of the privileges, rights, and immunities of the Citizens of the United States."

## TREATY WITH MEXICO. Feb. 2, 1848.

## ARTICLE IX.

"The Mexicans who, in the territories aforesaid, shall not preserve the character of citizens of the Mexican Republic, conformably with what is stipulated in the preceding article, shall be incorporated into the Union of the United States and be admitted, *at the proper time (to be judged of by the Congress of the United States)* to the enjoyment of all the rights of citizens of the United States according to the principles of the Constitution, and in the meantime shall be maintained and protected in the free enjoyment of their liberty and property, and secured in the free exercise of their religion without restriction."

## TREATY OF PARIS. April 11, 1899.

## ARTICLE IX.

"The civil rights and political status of the native inhabitants of the territories hereby ceded to the United States shall be determined by the Congress."

The Mexican treaty, it will be seen, does not attempt immediately *by the treaty* to incorporate the territory into the Union; it expressly remits that question to Congress. "Shall be incorporated into the Union of the United States and be admitted,"—When? Now, at once? No. "*At the proper time.*" Who by? Who is to determine the time? ("To be judged of by the Congress of the United States")—"to the enjoyment of all the rights of citizens of the United States according to the principles of the Constitution"—"and in the

meantime," that is, until "incorporated" by the Congress, "shall be maintained and protected, etc.," clearly postponing citizenship. In what substantial respect does this differ from the like clause in the Treaty of Paris? In the Paris treaty, civil rights were to "be determined by the Congress." In the Mexican treaty they were to be "admitted to" those rights when Congress should so judge. Notwithstanding the express reference of those questions to Congress by the treaty, the Court held that "*by the ratification of the treaty California became a part of the United States.*" No good reason has been shown why the same result did not follow from the same facts in the case of Porto Rico.

#### DRED SCOTT vs. SANDFORD.

The most glaring case of misconception is in connection with the *Dred Scott* case. As to this case Mr. Justice Brown says :

"It must be admitted that this case is a strong authority in favor of the plaintiff, and if the opinion of the Chief Justice be taken at its full value it is decisive in his favor."

I shall attempt to show that as to the issue here, whether the Constitution is operative in the territories, it is to be "taken at its full value." There was no dissent upon that point. The ways parted when the effect of the Constitution thus operating was considered. Mr. Chief Justice Taney held that the Constitution recognized property in a slave, and protected that property against adverse legislation. On this point Mr. Justice McLean and Mr. Justice Curtis dissented. As to the operation of the Constitution in the territories, Mr. Chief Justice Taney said :

"It [the government] enters upon it [a territory] with its powers over the citizen strictly defined, and limited by the Constitution, from which it derives its own existence, and by virtue of which alone it continues to exist and act as a government and sovereignty."

"The Federal Government can exercise no power over his person or property, beyond what that instrument confers, nor lawfully deny any right which it has reserved. \* \* It has

no power of any kind beyond it, and it cannot, when it enters into a territory of the United States, put off its character and assume discretionary or despotic powers which the Constitution has denied to it."

Mr. Justice Wayne and Mr. Justice Grier concurred fully in the opinion of the Chief Justice. Mr. Justice Nelson expressed no opinion on this question. Mr. Justice Daniel said :

"Scarcely anything more illogical or extravagant can be imagined than the attempt to deduce from this provision in the Constitution [territory or other property clause] a power to destroy or in anywise to impair the civil and political rights of the citizens of the United States. \* \* \*"

Mr. Justice Campbell said :

"I look in vain among the discussions of the time, for the assertion of a supreme sovereignty for Congress over the territory then belonging to the United States, or that they might thereafter acquire. I seek in vain for an enunciation that a consolidated power had been inaugurated, whose subject comprehended an empire and which had no restriction but the discretion of Congress."

Mr. Justice McLean said :

"No powers can be exercised which are prohibited by the Constitution, or which are contrary to its spirit ; \* \* \* . This is the limitation of all the Federal powers."

"No implication of a power can arise which is inhibited by the Constitution, or which may be against the theory of its construction."

Mr. Justice Curtis said :

"If, then, this clause [territory and other property clause] does contain power to legislate respecting the territory, what are the limits of that power? To this I answer, that, in common with all the other legislative powers of Congress, it finds limits in the express prohibitions on Congress not to do certain things ; that, in the exercise of legislative power, Congress cannot pass an ex post facto law or bill of attainder ; and so in respect to each of the other prohibitions contained in the Constitution."

The counsel for Dred Scott made this admission in his argument: "I admit that whether the power of Congress to legislate be given expressly or by implication, it is given with the limitation that it shall be exercised in subordination to the Constitution, and that if it be exercised in violation of any provisions of the Constitution the act would be void." No matter what has happened since the *Dred Scott* case, a proposition as to which both sides agreed cannot be said to have been impaired.

*The Monthly Law Reporter* for June, 1857, contains a very able and exhaustive review of the *Dred Scott* case of fifty-three pages, ascribed to John Lowell and Horace Gray, Jr., Esquires, (now Mr. Justice Gray of the United States Supreme Court). The article makes no criticism of the proposition that the Constitution extends to the territories, but concedes it, saying: "In no previous case in the courts has it ever been suggested that the power of Congress to govern the territories was limited in any respect, except by the *express provisions of the Constitution*," and cites with approval Mr. Justice McLean's statement that "the Constitution was formed for our whole country. The expansion or contraction of our territory required no change in the fundamental law." It pronounces the highest encomium upon Mr. Justice McLean's and Mr. Justice Curtis' opinions, saying of the latter that "by the common consent of the profession and of the public" it was "the strongest, clearest, as well as the most thorough and elaborate of all."

Abraham Lincoln, in his great debate with Douglass, bitterly and savagely attacked the Supreme Court for its decision in the *Dred Scott* case. He went so far as persistently to charge the majority with having entered into a conspiracy against liberty. He never criticised the proposition that the Constitution controlled Congress in legislating for the territories. He conceded that. In his Galesburg speech he defined his position thus:

"The essence of the *Dred Scott* case is compressed into the sentence which I will now read: 'Now as we have already said in an earlier part of this opinion, upon a different point, the right of property in a slave is distinctly and expressly affirmed in the Constitution.' I repeat it, '*the right of property in a slave is distinctly and expressly affirmed in the Constitution.*'"

The perpetuation of slavery by the Constitution, not the extension of the Constitution to the territories, was in his view the infamy of the *Dred Scott* case. It was this that made Sumner call the Supreme Court a "barracoon." A base and studious effort outside of the court has been made to show that the theory that the Constitution controls Congress in legislating for the territories, is the special property of Calhoun, and if overthrown, another nail is driven in the coffin of Calhounism—another clod placed upon the grave of disunion and slavery. It proceeds from insufficient knowledge or pure demagoguism.

Politically, constitutional control was first announced by the Liberty Abolitionist party in 1844, in their platform, in these words:

"*Resolved*, That the general Government has, under the Constitution, no power to establish or continue slavery anywhere, and therefore that all treaties and acts of Congress establishing, continuing, or favoring slavery in the District of Columbia, in the Territory of Florida, or on the high seas, are *unconstitutional*, and all attempts to hold men as property within the limits of exclusive national jurisdiction ought to be prohibited by law."

In 1856, the Democratic party, in its platform, although it made frequent reference to the Constitution and declared that Congress had no power under it to control "the domestic institutions of the several States," took no position on the constitutional limitations on the power of Congress to govern the territories, and in 1860 it expressed no opinion upon this question but contented itself with the declaration that "as differences of opinion existed" as to that point, "that the Demo-

cratic party will abide by the decision of the Supreme Court of the United States on the questions of constitutional law." They did not deny the principle, but they did not affirm it. On the other hand, in 1856, the Republican party made the operation of the Constitution over the territories an article of party faith, the second plank of their platform being :

*"Resolved, That, with our Republican fathers, we hold it to be a self-evident truth that all men are endowed with the inalienable rights to life, liberty and the pursuit of happiness, and that the primary object and ulterior design of our Federal Government were to secure these rights to all persons within its exclusive jurisdiction ; that, as our Republican fathers, when they had abolished slavery in all our national territory, ordained that no person should be deprived of life, liberty or property without due process of law, it becomes our duty to maintain this provision of the Constitution against all attempts to violate it for the purpose of establishing slavery in the United States, by positive legislation prohibiting its existence or extension therein ; that we deny the authority of Congress, of a territorial legislature, of any individual or association of individuals, to give legal existence to slavery in any territory of the United States while the present Constitution shall be maintained."*

Here is an express recognition and reliance upon the proposition that the Constitution controlled Congress in legislating for the territories. In 1860 it denounced the slavery feature of the *Dred Scott* decision and affirmed its position on the Constitution and territories as follows :

#### SECTION 7.

*"That the new dogma,—that the Constitution, of its own force, carries slavery into any or all of the territories of the United States,—is a dangerous political heresy, at variance with the explicit provisions of that instrument itself, with contemporaneous exposition, and with legislative and judicial precedent ; is revolutionary in its tendency and subversive of the peace and harmony of the country."*

## SECTION 8.

"That the normal condition of all the territory of the United States is that of freedom; that as our Republican fathers, when they had abolished slavery in all our national territory, ordained that *"no person should be deprived of life, liberty, or property without due process of law,"* it becomes our duty, by legislation, whenever such legislation is necessary, to maintain this provision of the Constitution against all attempts to violate it; and we deny the authority of Congress, of a territorial legislature, or of any individuals, to give legal existence to slavery in any territory of the United States."

The Republican party upon this platform entered upon and fought its great battle for human liberty. Because it waged a successful warfare it can hardly be said that the principles for which it fought were overthrown in the contest. The Republican party said the Constitution went to the territories, and carried liberty with it. It is immaterial who originally championed the extension of the Constitution to the territories, nor does the fact that it was once prostituted to a base purpose concern us. It has been dedicated to freedom. The Republican party has never by any platform utterance reversed its position on this question. This great principle was jauntily described by Benton as a "vagary." In the light of this history how can it with any propriety be said of the only proposition laid down in the *Dred Scott* case that is raised here, that "the country did not acquiesce in the opinion, and that the civil war which shortly thereafter followed produced such changes in judicial as well as public sentiment, as to seriously impair the authority of that case?" That may be said of the slavery branch of the proposition, as to which there was an "irrepressible conflict," but not as to a proposition upon which all agreed.

Mr. Justice Brown suggests "that in view of the excited political condition of the country at the time, it is unfortunate that he [Mr. Chief Justice Taney] felt compelled to discuss the question upon the merits," but that does not impair the



authority of a principle as to which the contending parties stood on common ground. In any event this is to be said of Mr. Chief Justice Taney's opinion, assuming that it passed upon a question uncalled for by the issue presented, there is nothing in the language of his opinion that indicates it was being rendered for a purpose, that it had in view any political considerations, or allowed any consequences to influence the result. Can as much be said of those who criticise him? In the *Dred Scott* case, the court worked out from a conceded proposition, endorsed by the Republican party, an erroneous conclusion, utterly repugnant to the enlightened Christian conscience of a free people, in order that the slavery of a race might be made enduring. In the *Downes* case a disagreeing court with one majority reverses this admitted principle, emancipates the Congress from the control of the Constitution in order that a land of vast fertility and great resources, and ten millions of people and millions yet unborn, may be forever subjected to the commercial servitude and the unrestrained will of the Republic. In this connection I call attention to the fact that Mr. Justice Brown finds it necessary to call again upon the great authority of Webster, the "expounder of the Constitution," and to cite Benton and Clay to buttress his cause.

He quotes Webster as saying in discussing the proposition to extend the provisions of the Constitution to the territories by act of Congress, that the "scheme" was an "absurdity" and an "impossibility." Yet it is not only now conceded on all hands that it can be done, but it is now claimed that once done it cannot be undone. He further quotes him as saying "that Congress governed the territories independently of the Constitution, and incompatibly with it; that no part of it went to a territory but what Congress chose to send [that is you could send it piecemeal, but not in bulk]; that it could not of itself act anywhere, not even in the States for which it was made, and that it required an act of Congress to put it in operation before it had effect anywhere." This last suggestion

would be startling if it did not on a moment's examination appear to be clearly absurd. Note that the assertion is general, and does not discriminate between the provisions of the Constitution conferring powers to be exercised, and imposing restrictions upon the exercise of power. That a power to be exercised is dormant and inoperative even in a State until it is put in operation by an act of Congress, we can understand, but the suggestion that a limitation or restriction upon the exercise of a power (and that is the question here) cannot operate "anywhere, not even in the States;" until the body to be restrained sees fit to impose the restraint is an absurdity that would be monumental if it had not been uttered by Webster. It illustrates the superficial manner in which he discussed the question. An examination of the debate from which the quotation is made shows that Webster's part in it was incidental and impromptu, as all he said does not occupy a page in the *Globe*. Unmindful of the fact of the distinction between political and civil rights, and that political rights furnish no test of the existence of civil rights, and forgetful that Mr. Chief Justice Marshall in the *Loughborough* case distinctly overruled that point, he still presses the representative idea as the sole test. He said:

"The Constitution—what is it? We extend the Constitution of the United States by law to territory. What is the Constitution of the United States? Is not its very first principle that all within its influence and comprehension shall be represented in the Legislature which it establishes, with not only a right of debate and a right to vote in both Houses of Congress, but a right to partake in the choice of President and Vice-President?"

It has been discovered by experience that these direful results have not followed from the terrible act of extending the Constitution. As Webster saw the Constitution go out, he could see a United States Senator coming in. Of what special value is his opinion when he thus confuses political privileges and legal rights. He said further in the debate:

"How do you arrive at it by any reasoning or deduction? It can only be arrived at by the loosest of all possible constructions. It is said that this must be so, else the right of *habeas corpus* would be lost; undoubtedly these rights must be conferred by law before they can be enjoyed in a territory."

That is, the right of *habeas corpus* does not exist in a territory unless conferred by Congress, if Webster's view was sound. Is the court prepared to hold that the inhabitants of Porto Rico and the Philippines can be arbitrarily restrained of their liberties without form or process of law, and it cannot be inquired into and relieved by *habeas corpus* unless Congress shall have so determined? It is a well known fact that in at least one instance the powers that be have declined to face that issue. Perhaps nothing can better illustrate the reckless extravagance with which Webster stated legal propositions in this debate, than his assertion that the fact that the Constitution did not extend to the territories had been "decided by the United States Court over and over again for the last thirty years," when the fact is that he had been gathered to his fathers nearly forty-nine years before any such decision ever illumined our jurisprudence, and twenty-nine years before he spoke the court had in effect held that it did.

It is unjust to the reputation of this great man to allow it to stand upon the loose and superficial statements in this debate in 1849. His purpose then was, no doubt, to repel the advance of slavery. With the same purpose in view in 1848, he made a great speech against the Mexican war, filling fifteen columns in the *Globe*, evidently the result of careful preparation. He discussed the precise question involved here, the acquisition of new territory, and the constitutional difficulties involved therein. On that he said:

"Arbitrary governments may have territories and distant possessions, because arbitrary governments may rule them by different laws and different systems. Russia may rule in the Ukraine and the provinces of Caucasus and Kamschatka by different codes, ordinances, or ukases. We can do no such thing. They must be of us, *part* of us, or else strangers. I

think I see that in progress which will disfigure and deform the Constitution. \* \* I think I see a course adopted which is likely to turn the Constitution of the land into a deformed monster, into a curse rather than a blessing; in fact a frame of an unequal government, not founded on popular representation, not founded on equality, but on the grossest inequality, and I think that this process will go on until this Union shall fall to pieces. I resist it to-day and always."

When his attention is concentrated upon the precise issue he does not appear to be of much assistance to the learned Justice. It is not surprising that this 1848 speech appears in his collected works with some slight revision, showing that it had passed under the master's hand, while that of 1849 has been allowed to moulder under the dust of the *Congressional Globe*.

As to Benton, if we are to be governed by his views we need give ourselves but little concern, as he starts his examination of the *Dred Scott* case with the assertion that the questions were "political, affecting Congress in its legislative capacity, and on which the Supreme Court has no right to bind or control that body." It is perhaps enough to say of Mr. Benton that this jurisconsult affirmed Mr. Webster's loose suggestions, saying:

"In the second place, it cannot operate anywhere, not even in the States for which it was made, without acts of Congress to enforce it. This is true of the Constitution in every particular."

And as he was nothing if not emphatic, in order to be precise, he said:

"Every part of it is in-operative until put into action by a statute of Congress."

He went even farther, and claimed that it could not be done, saying:

"And if the Constitution was extended to the Territories (which it cannot be),"

A section of an act reading:

"And be it further enacted, That the Constitution and laws of the United States are hereby extended over and declared

to be in force in said territories of California and New Mexico, so far as the same, or any provision thereof, may be applicable,"

he declared to be "of absurd impossibility," when so great has been the increase of light since his day, that four of the majority hold that the Constitution is in force in the territories without the aid of statute so far "as applicable."

For the purpose of showing that he sustained this theory of legislative absolutism, Mr. Clay is quoted in this connection as saying :

"The idea that *eo instanti* upon the consummation of the treaty, the Constitution of the United States spread itself over the acquired territory and carried along with it the institution of slavery, is so irreconcilable with my comprehension, or any reason I possess, that I hardly know how to meet it."

This quotation is from Clay's great speech on the compromise measures. An examination of the immediate context will disclose the fact that Clay did not attack the question of the Constitution extending to the territories, but made his whole attack upon that branch of the proposition that held that it "*carried along with it the institution of slavery.*" If this was not clear from the context, if the learned Justice had read three columns more of the speech he would have found Mr. Clay stating his position beyond all cavil, and against the Justice's contention. Mr. Clay said :

"The government of the United States, therefore, possesses all the powers which Mexico possessed over those territories, and the government of the United States can do with reference to them, within, I admit, *certain limits of the Constitution*, whatever Mexico could have done. There are prohibitions upon the power of Congress within the Constitution, which prohibitions, I admit, must apply to Congress *whenever it legislates*, whether for the old States or the *new territories*," \* \* "but within the scope of those prohibitions, and none of them restrain the exercise of the power of Congress upon the subject of slavery ; the powers of Congress are co-extensive and co-equal with the powers of Mexico prior to the cession."

This sounds like Mr. Justice Harlan's learned and patriotic opinion in the *Downes* case. Clay went further, and specifically referred to the District of Columbia, asserting with reference thereto "that Congress has all power which is not *prohibited by some provision* of the Constitution of the United States." It never occurred to him that Congress was unrestrained by the Constitution anywhere. I do not know that Mr. Clay has ever been charged with being a great constitutional lawyer, but common justice requires that his position when referred to on a great question like this should be stated with reasonable accuracy. It is not perceived how this triumvirate of statesmen give any material aid to the court. Perhaps it would on the whole have been as well if the learned Justice had observed the correct maxim which he laid down early in the opinion: "The argument of individual legislators is no proper subject for judicial comment. They are so often influenced by personal or political considerations, or by the assumed necessities of the situation, that they can hardly be considered even as the deliberate views of the persons who make them, much less as dictating the construction to be put upon the Constitution by the courts."

There is a line of cases relating to the territories and the District of Columbia—some of which are: *Webster vs. Reid*, 11 How. 437; *Reynolds vs. United States*, 98 U. S. 154; *National Bank vs. Yankton*, 101 U. S. 133; *The City of Panama*, 101 U. S. 453; *Callan vs. Wilson*, 127 U. S. 550; *McAllister vs. United States*, 141 U. S. 179; *Talbott vs. Silver Bow Co.* 139 U. S. 441; *American Publishing Co. vs. Fisher*, 166 U. S. 464; *Springville vs. Thomas*, 166 U. S. 707; *Bauman vs. Ross*, 167 U. S. 548; *Thompson vs. Utah*, 170 U. S. 343; *Capital Traction Co. vs. Hof*, 174 U. S. 1;—as to some of which Mr. Chief Justice Fuller, in his very able and learned dissenting opinion, accurately says:

"Many of the later cases were brought from territories over which Congress had professed to 'extend the Constitution,' or from the District after similar provision, but the de-

cisions did not rest upon the view that the restrictions on Congress were self-imposed, and might be withdrawn at the pleasure of that body."

When I indorse this statement as accurate, I am not unmindful of the fact that Mr. Justice Brown states that, "*In American Publishing Co. vs. Fisher*, 166 U. S. 464, a similar law providing for majority verdicts was put upon the express ground above stated, that the organic act of Utah extended the Constitution over that territory." The opinion in that case was by Mr. Justice Brewer; it is short, and I will quote all the court said on this point:

"The territorial statute was relied upon as authority for this action. Its validity, therefore, must be determined. Whether the 7th Amendment to the Constitution of the United States, which provides that 'in suits at common law, where the value in controversy shall exceed \$20, the right of trial by jury shall be preserved,' operates *ex proprio vigore* to invalidate this statute, may be a matter of dispute.

"But if the 7th Amendment does not operate in and of itself to invalidate this territorial statute, then Congress has full control over the territories irrespective of any express constitutional limitations, and it has legislated in respect to this matter."

Now comes the statement of the "ground" upon which the case "was put":

"Therefore, either the 7th Amendment to the Constitution, or *these acts of Congress*, or all together, secured to every litigant in a common law action in the courts of the Territory of Utah the right to a trial by jury, and nullified any act of its legislature which attempted to take from him anything which is of the substance of that right."

#### LEGISLATIVE CONSTRUCTION.

Practical construction by legislative acts is given great weight, especially by Mr. Justice White in reaching his conclusion. *Fairbanks vs. United States*, decided at the same term, where the court held the stamp tax imposed on a foreign bill of lading to be equivalent to a duty on exports and there-

fore unconstitutional, is an illustration of the uncertainty of the application of this rule. There the "practical construction" was all one way, and began in 1787, sustaining the tax. The court, however, ignored this rule on the ground that it could be "relied upon only in cases of doubt." It will be seen how readily "practical construction" can be eliminated by this rule. Mr. Justice Brown and Mr. Justice Shiras gave it weight in the *Downes* case, and ignored it in the *Fairbanks* case. Whatever the practical legislative construction may have been in the exercise of absolutism hitherto, it must be borne in mind that all of this legislation has been tentative, and temporary in its character and purpose, preliminary to a regularly organized constitutional government. In case of territories, with the exception perhaps of Alaska, it has always been in contemplation that they would in due time make states. It is perfectly conceivable that Congress, by reason of some supposed exigency incident to the formative period, might adopt temporary legislative expedients of doubtful constitutionality, which they never would think of applying as a permanent rule to conditions expected to continue indefinitely.

#### THIRTEENTH AMENDMENT.

A question of supposed constitutional construction requires attention. The Thirteenth Amendment to the Constitution reads:

"Section 1. Neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction."

The last clause of this section, "or any place subject to their jurisdiction," is thought to be pregnant with importance. The Attorney General thought it was "most remarkable and significant." Mr. Justice Brown thinks it "is also significant as showing that there may be places within the jurisdiction of the United States that are no part of the Union," and Mr. Justice White called attention "to the Thirteenth Amendment



of the Constitution, which," he says, "to my mind seems to be conclusive," \* \* and "Obviously this provision recognized that there may be places subject to the jurisdiction of the United States, but which are not incorporated into it, and are hence not within the United States in the completest sense of those words." The question here is what the fathers meant, when, in 1787 they used certain language in the Constitution. I shall not stop to elaborate the proposition whether the fact that their children, in 1865, used certain language in connection with the same subject, has any legitimate tendency to show what the fathers did or did not mean when they used certain other language seventy-eight years before. It is possible that logic may bridge that chasm, but I should think it doubtful.

It will do no harm to inquire what, if anything, the children meant by the use of this "significant" clause. I have examined the history of that amendment, and I beg to suggest with all due diffidence that *no significance whatever* was attached to its use by those who used it. This amendment was introduced by Hon. J. B. Henderson, then a Senator from Missouri and a slaveholder, on the 11th day of January, 1864, and referred to the Committee on the Judiciary, of which Lyman Trumbull was chairman. It then read:

"Article I. Slavery or involuntary servitude, except as a punishment for crime, shall not exist in the United States."

On the 10th day of February Mr. Trumbull reported it back from the Judiciary in its present form, making an oral report as follows:

"The Committee on the Judiciary, to whom were referred various petitions from different parts of the country, praying for an amendment to the Constitution of the United States so as to incorporate a provision prohibiting slavery in all the States and Territories of the Union, and also a joint resolution (S. No. 16) proposing amendments to the Constitution of the United States, and a joint resolution (S. No. 24) to provide for submitting to the several States an amendment of the Constitution of the United States, instructed me to report back an

amendment to the Senate of the joint resolution No. 16 in the way of a substitute. I will state that the amendment, as recommended by the Committee on the Judiciary, provides for submitting to the Legislatures of the several States a proposition to amend the Constitution of the United States so that neither slavery nor involuntary servitude, except as a punishment for crime, whereof a party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction; and also that Congress shall have power to enforce this article by proper legislation. I desire to give notice to the Senate that I shall, at an early day, call for the consideration of this resolution."

No written report appears to have been made; S. No. 16 was the Henderson resolution. It will be observed that Trumbull's report gives no reason for the adding of this clause, and does not refer to it specifically as distinguished from any other clause. I have examined the debate, and not only was absolutely no significance attached to this clause, but I do not even find it referred to. The burden of the debate was whether slavery should be abolished, and practically no attention was paid to the terms of the amendment by which it was to be accomplished. Sumner it is true made some verbal criticisms, and suggested several amendments to perfect the language from his view, none of which were adopted. He did not, however, make any reference to this clause. The language of an amendment offered by him February 8, 1864, referred to, and adversely reported by, the Judiciary, negatives the idea that the reason suggested for the use of this clause existed. His amendment read:

"Everywhere in the limits of the United States, and each State and Territory thereof, all persons are equal before the law, so that no person can hold another as a slave."

Here the words "and each State and Territory thereof" are clearly repeated by way of emphasis, and the fact that the word "territory" is used in the same clause, in the same manner, and for the same purpose as the word "state," makes it evident that a "territory" was as much understood to be

within the United States as a "state," and that there was as much occasion for referring to one as to the other. Very few references were made to the amendment in debate. Mr. Harlan put this question: "Ought the Constitution of the United States to be so amended as to abolish slavery, or to prevent the existence of slavery in all the States of the Union?" Mr. Holman said: "You now propose to abolish slavery throughout the United States?" Mr. Thayer stated that the effect of the amendment would be "to prohibit slavery forever within the territory of the United States." Mr. Orth said, after quoting the amendment: "The effect of such amendment will be to prohibit slavery in these United States;" not a word as to a desire to reach territory beyond the limits of the United States, or the necessity of this "remarkable" clause for that purpose.

Mr. Henderson is still living, vigorous in intellect, and a lawyer of experience and great ability, as well as a man of large affairs. I called his attention to the significance attached to this clause, asking him if he could give me anything from his personal recollection that would throw any light upon this "conclusive" incident. I find he was an intimate friend of Senator Trumbull. I have from him an exceedingly interesting letter, too long for quotation.<sup>1</sup> Among other things, he says:

"Whatever else these words may refer to, they surely were not intended to embrace or refer to the territories of the United States."

So far as anything that was said or done by those who were a part of this history, the clause was apparently used for the purpose suggested by Mr. Chief Justice Fuller in his dissenting opinion, "simply out of abundant caution." When it does not appear that a single individual during that time ever thought specially of, or attached the slightest significance to, this clause, is it not to the last degree improbable that any one of the millions that voted upon the amendment exercised any

<sup>1</sup> The letter is printed at the end of this Address.

thought, or had any intention with reference thereto. Yet Mr. Justice Brown suggests that: "Not only did the people in adopting the Thirteenth Amendment thus recognize a distinction between the United States and "any place subject to their jurisdiction," as though the people had intelligently and purposely passed upon this question and significantly imbedded it in their fundamental law. How can this amendment add anything to the discussion? Still we must concede that much depends upon the point of view. These opinions illustrate this. Mr. Justice Brown says:

"The decisions of this court upon the subject have not been altogether harmonious. Some of them are based upon the theory that the Constitution does not apply to the territories without legislation. [It would be instructive to have these pointed out.] Other cases arising from territories where such legislation has been had, contain language which would justify the inference that such legislation was unnecessary, and that the Constitution took effect immediately upon the cession of the territory to the United States."

Mr. Justice White says:

"Let me now proceed to show that the decisions of this court, without a single exception, are absolutely in accord with the true rule as evolved from a correct construction of the Constitution as a matter of first impression and as shown by the history of the government which has been previously epitomized."

"How shall we find the concord of this discord?"

#### THE CONSEQUENCES INVOLVED.

With the greatest respect for the court, I feel bound to say that it seems to me that the majority justices were too profoundly impressed with the supposed consequences of an adverse decision.

In Mr. Justice McKenna's view, it took "this great country out of the world and shuts it up within itself." Mr. Justice Brown thought: "If such be their status [citizens] the consequences will be extremely serious. Indeed, it is doubtful

if Congress would ever assent to the annexation of territory upon the condition that its inhabitants, however foreign they may be to our habits, traditions and modes of life, shall become at once citizens of the United States. \* \* Such requirement would bring them at once within our internal revenue system \* \* and applying it to territories which have had no experience of this kind, and where it would prove an intolerable burden. \* \* Our internal revenue laws, if applied in that island, would prove oppressive and ruinous to many people and interests. \* \* A false step at this time might be fatal to the development of what Chief Justice Marshall called the American Empire," and "the question at once arises whether large concessions ought not to be made." And Mr. Justice White thought that if incorporated, "it resulted that the millions of people to whom that treaty related, were, without the consent of the American people, as expressed by Congress, and without any hope of relief, indissolubly made a part of our common country."

What are the direful consequences that inhere in the application of all of the provisions of the Constitution to the territories? I can understand how sugar and tobacco planters, and raisers of tropical fruits, can see "serious" consequences in conditions that might compel them by competition to reduce the price of their goods to the consumer, and hence the importance of being able to discriminate against such competitors. Such consequences, however, would not necessarily be very "serious" to the great mass of our people.

Inasmuch as voting and representation are not elements, what other consequences are there that should be guarded against with such zeal. Is it the competition of cheap labor? We have emancipated millions in our own land without disturbing labor conditions. There were those who thought that upon emancipation "a torrent of black emigration would set forth from the South to the North;" "one of the first results of its emigration would be a depreciation in the price of labor. The added number of laborers would, of itself, occasion this fall of

prices, but the limited wants of the negro, which enable him to underwork the white laborer, would tend still further to produce this result. The honest white poor of the North would, therefore, be either thrown out of employment entirely by the black, or forced to descend to an equality with the negro, and work at his reduced prices."

None of these woes have vexed us. The negro cannot be driven out of the South. He has as yet made no injurious competitive industrial development here, surrounded by vast natural resources, and the Filipino is ten thousand miles away. He is vastly the superior of the Filipino physically, and until the Philippines produce a Fred Douglass or a Booker T. Washington, he has nothing to fear in an intellectual comparison. The temporary inconvenience of internal revenue laws seems to me vastly overestimated. Mere inconvenience can hardly determine a constitutional question.

Where is the bugbear? Is citizenship really "extremely serious?" If so, in what particular, and how? The Foraker bill when first reported from the committee contained a provision making the inhabitants of Porto Rico "citizens of the United States." The committee did not seem to be impressed with the "serious" character of that act. They said in their report:

"The committee have seen fit, by the provisions of this bill, to make them citizens of the United States, not because of any supposed constitutional compulsion, but solely because, in the opinion of the committee, having due regard to the best interests of all concerned, it is deemed *wise* and *safe* to make such a provision."

Again:

"It was necessary to give these people some definite status. They must be either citizens, aliens or subjects. We have no subjects, and should not make aliens of our own. It followed that they should be made citizens, as the bill provides."

If, for any reason, the committee had thought it unwise or unsafe, they might have withheld that quality. Apparently

we now have "subjects." As to dangers, the court seems to have become possessed of light which was denied to the committee. The committee studied the practical conditions, and it seemed to them "wise and safe." What has happened to make it so "serious?" Should we not have a specification of the dangers that inhere in giving to "our own" the same civil rights under the Constitution that we possess?

Such are a few of the considerations tending to show that the profession and the country may not feel like unreservedly acquiescing in this decision. The foundation upon which it rests is too insecure to insure permanence. As the needle always turns to the pole, may we not hope that the greatest court in Christendom will in the end determine the law of the land in accordance with correct principles. With such an unerring guide the Republic will achieve its splendid destiny, "conquering and to conquer," enlarging its borders, disseminating the blessing of its civilization, and fulfilling the mission of Him who "hath made of one blood all nations of men, for to dwell on the face of the earth."

WASHINGTON, D. C., June 28, 1901.

HON. C. E. LITTLEFIELD,  
Rockland, Me.

MY DEAR SIR:—In reply to yours of the 22d instant, I can give you but little beyond the bare impressions left on my mind by events which occurred over thirty-seven years ago. I am just starting to Bar Harbor for the summer; and I am

therefore unable to make the examination of Congressional records and other data necessary for a more satisfactory answer to your questions.

The joint resolution to amend the Constitution abolishing slavery, which afterwards became the 13th amendment, was presented by me on January 11, 1864, and at once referred to the Judiciary Committee of the Senate. The resolution as submitted consisted of two articles, the first of which was intended to abolish slavery throughout the United States, and the second was designed to facilitate or make less difficult, the process of amending the Constitution.

The first article as introduced by me was in these words :

“ARTICLE I. Slavery or involuntary servitude except as a punishment for crime, shall not exist in the United States.”

On the 10th of February following, the Committee, through its Chairman, Mr. Trumbull, reported back the joint resolution, omitting entirely the 2d article, and amending the 1st article to read as follows :

“SECTION I. Neither slavery nor involuntary servitude except as a punishment for crime, whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

“SEC. II. Congress shall have power to enforce this article by appropriate legislation.”

My remembrance is that Mr. Trumbull, and possibly some other members of the Judiciary Committee, while the resolution was before them, indicated to me a desire or purpose to conform the language of the amendment as far as possible to that of the 6th article of the ordinance of 1787 for the government of the Northwest Territory, which, as you will remember, is in the following words :

“ARTICLE VI. There shall be neither slavery nor involuntary servitude in the said territory, otherwise than in the punishment of crimes, whereof the party shall have been duly convicted.”

As slavery was not supposed to exist at all in the Northwest Territory in 1787, the Congress of the Confederation used language, not to abolish slavery, but to prevent its future introduction, to-wit, “there *shall* be neither slavery nor invol-



untary servitude," etc. That slavery existed as a matter of right or of law in the United States in 1864 was disputed by some members of Congress. But that it existed as a matter of fact was hardly to be disputed by anybody. I assume that the Judiciary Committee recognized the actual existence of slavery, and their purpose was to use language proper to terminate its existence on the adoption of the amendment. The change in phraseology is slight, but indicative of the purpose. The language used is, "neither slavery nor involuntary servitude \* \* \* shall *exist* within the United States," etc. In other words, as slavery did *not* exist in the Northwest Territory in 1787, it was enough to say "there shall be" none there in the future. But as slavery *did* exist in the United States in 1864, it was declared that, upon adoption of the amendment, it should no longer exist.

In this desire to conform to the phraseology of the Ordinance of 1787, it followed, of course, that the words "whereof the party shall have been duly convicted," were inserted. To this change, I, of course, made no objection. If it introduced anything new into the amendment, the new matter was in no way objectionable. If it added nothing of substance to my original resolution, it detracted nothing, and possibly made it less liable to misinterpretation. While clearness of expression is desirable in the framing of laws, brevity is equally desirable provided the language used comprehends the purpose sought. It never entered into my mind, however, that "punishment for crime," under our system of government, could be decreed by any authority other than the duly constituted tribunals of justice.

But the amendment to which you call my special attention is found in the words, "or any place subject to their jurisdiction."

After providing that "neither slavery nor involuntary servitude shall exist in the United States," you properly ask why it was thought necessary to add the words, "or any place subject to their jurisdiction." And in this connection you call my attention to the comments of Justices Brown and White of the Supreme Court in their late opinions in the Porto Rico cases.

The reasoning of these eminent judges is clearly defective, and the difficulties of construction suggested by them would have disappeared with a better knowledge of the history of

the amendment and the peculiar circumstances attending its adoption.

Whatever else these words may refer to, they surely were not intended to embrace or refer to the territories of the United States. If the eminent lawyers, who composed the Judiciary Committee at that time, had intended such a meaning, the term "territory" or "territories" would have been expressly used. It is the language of the original constitution. "The Congress shall have power to dispose of and make all needful rules and regulations respecting the 'territory, or other property,' etc." The word "territory" had a clear and well-defined meaning before the Federal Constitution was framed. It was constantly used and well understood under the old Confederation of states. The United States inherited "territories;" and the new government accepted the nomenclature attached to them as the convention had crystalized it in the Constitution. It is a term whose definition is as distinctive as any other term or phrase used in that instrument.

In providing for a capital or seat of government, the land to be acquired for that purpose was not called a "territory." It was named a "district"; and that title inheres in all our laws. The sites to be obtained for "Forts, Magazines, Arsenals, Dock-yards and other needful buildings," were not designated as "territories." They were called "places." And as these places were to belong to the United States, they would necessarily be "subject to their jurisdiction." And in this connection, you will mark the fact that the Judiciary Committee in framing the Constitutional amendment of 1864, used the word "place"—the precise word already used in the Constitution to designate those districts or tracts of land, other than territories, belonging to the United States.

In 1864, let it be remembered, the members of Congress who were called to act on this amendment, were fresh from the work of laying taxes of every character—"taxes, duties, imposts and excises." The whole gamut of taxation, as known to the Constitution, was quite familiar to them all; and it was accepted by all that tax laws, by virtue of general enactment, applied to "territories" as well as states. How could it be otherwise, when each member knew and properly respected the old and revered decision in the Loughborough-Blake case, which had long before defined the term "United States." That Court, through its Chief Justice, had said: "It is the

name given to our great republic which is composed of states and territories. The District of Columbia, or the territories west of the Missouri, is not less within the United States than Maryland or Pennsylvania."

If we examine contemporaneous history, we find the nation involved at that time in a war of gigantic proportions—blockade runners hovering about our Southern coasts with privileges of shelter in the islands of the gulf, and privateers despoiling our commerce, carrying commissions of the Confederate states and carrying, too, the sympathy of European governments.

Among the officers of our army and navy the demand for naval and coaling stations outside the United States and nearer to the rendezvous of these enemies of our national success, was not only general but urgent. The necessity for such stations was equally recognized by the statesmen of the period. So strong was this feeling that Admiral Meade, a short time after, assumed the authority to contract with a Samoan chief for the harbor of Pago Pago; and General Grant, as President, with similar purpose, opened negotiations for island sites in the Gulf of Mexico. In contemplation of such stations, the language of the amendment becomes not only appropriate but necessary. They might be obtained in slave-holding territory. If so, no compact in the covenants of purchase or lease should be allowed to perpetuate the institution. In the language of the Constitution, as it then stood, such stations would not be designated as "territories" but "places." And this latter word was the term naturally to be selected by such lawyers as Trumbull, of Illinois, Harris, of New York, Howard, of Michigan, Foster of Connecticut, and Ten Eyck, of New Jersey.

I come now to another view of the subject, then fully realized and felt by all, but not openly discussed by any. I mean the ever-constant fear that after all our sacrifices, foreign intervention or other contingencies might compel either a final separation of the states or a peace on terms looking to the continuance of slavery in some of its forms. With the more pronounced anti-slavery men (especially those of the old abolition party) the fear of this latter contingency was more dreadful, if possible, than that of dissolution or permanent separation. Among these men there was want of confidence, more or less, in Mr. Lincoln himself. He had already said that he would favor whatever made for the Union. If the

Union could be preserved by abolishing slavery, he would destroy slavery. If the Union could only be preserved by retaining slavery, he would accept the hard condition and save the Union.

To statesmen like Mr. Sumner, this was gall and wormwood. They were peculiarly alive to the possibilities of the future. The seceding states might be taken back with their original institutions untouched. If so, the old strife would continue. The roots of dissension would again grow into rebellion and war. These states might possibly be left in a Confederacy to themselves, but in some way subject to a modified jurisdiction of the United States—such as the Balkan states under Turkey, such as the South African Republics under Great Britain, or Cuba under the Platt Resolutions.

It was then universally conceded that if slavery could be once abolished by Constitutional provision, it could not be revived by treaties of peace. The Constitution was then supposed to be superior to treaties and laws. The nation had not then outgrown its own organic law. A treaty in violation of the Constitution would have been denounced even by laymen, as null and void. The Republic in its swelling pride of greatness had not accepted the doctrine that the thing created may be greater than the creator, or that two or more departments of the government might set aside the instrument under which they have their being. But if slavery were securely abolished by Constitutional provision, it was believed that its continuance could not be accepted as a condition of peace.

When this amendment was drafted General Grant had not commenced the great campaign against Richmond (he had not even been selected for the work), and General Sherman had not reached Atlanta nor organized his march to the sea. No man could prophesy the end. But whatever else might result, a majority of Union men had reached the hope and purpose that there should be an end of slavery. Perhaps to this intense desire, however crude and imperfect his phraseology, may be attributed the joint resolution of Mr. Sumner, on this subject, introduced into the Senate on February 8, 1864, and afterwards pressed by him as a substitute for the Committee's report. It provided as follows: "Everywhere in the limits of the United States, and of each state and territory thereof, all persons are equal before the law, so that no person can hold another as a slave." If this resolution had become a part of

the Constitution, those honorable judges who were puzzled by the language of the 13th amendment as it stands, would have been led into inextricable confusion, in an effort to account for the word "states," after the whole area of the United States had been provided for.

In view of the facts referred to, it is fair to presume the Committee concluded that the words "United States" embraced all the states admitted into the Union and all the territories belonging to the government; and that the phrase "any place subject to their jurisdiction" covered the District of Columbia, the Forts, Arsenals, Dockyards, Naval and Coal-ing stations, together with any territory then within the seceded states over which any jurisdiction or authority might result from treaties of peace at the conclusion of the then pending war.

Yours very truly,

J. B. HENDERSON.

# IMPLIED LIMITATIONS UPON THE EXERCISE OF THE LEGISLATIVE POWER.

BY

RICHARD C. DALE,  
OF PHILADELPHIA, PENNSYLVANIA.

By the Constitution of the United States, the powers of the Federal Government are divided into Legislative, Executive and Judicial. All legislative power is vested in a Congress; the executive power is vested in a President; and the judicial power is vested in one Supreme Court and in such inferior courts as the Congress may from time to time ordain.

This Constitution, with its amendments, contains an enumeration of the powers specifically conferred upon the Congress; it also defines the rights of the States and of citizens, which Congress and the several State legislatures may not impair or abridge.

The several State Constitutions follow the Federal Constitution in separating the exercise of the legislative, executive and judicial powers. The constitutions confer in general terms upon a representative legislative body the power of legislation, but most of them, by many and diverse restrictions, greatly limit the subjects upon which valid legislation can be enacted.

No one here present doubts that the exercise of legislative power is subject to express constitutional limitation; and the judgments of Federal and State courts in their several fields of action, rendering of no force statutes passed in disregard of the Federal and State constitutions, are accepted by the people as well as the bar as the final utterance of the tribunal, upon whom the people as the ultimate sovereign have conferred the power of determining whether or not the legislature in fact have exercised their delegated powers in accordance with the chart of their authority as written in the Constitution.

The right and power of the judiciary thus to declare and enforce express constitutional limitations upon legislative action is recognized by lawyers of all schools of political thought, but we who follow proceedings in the courts must be impressed with frequent appeals to the judiciary to declare statutes void and of no force upon the ground that their provisions are contrary to principles of common right, either natural or political. The argument is, that the legislature is not itself a sovereign power, that sovereignty resides only in the people; that all powers of legislation delegated by the sovereign people to their representatives in legislature assembled are subject to limitations springing from the nature of free government: some of which may be expressed in written Constitutions or Bills of Rights, but many of which must rest for support only upon fundamental principles of right and justice inherent in the nature and spirit of the social compact; and that these it is the duty of the judiciary to discover and declare, when the legislature is forgetful of its responsibilities, and through passion or partizanship enacts laws in disregard of the rights of citizens and the good of the State.

These appeals to the bench are sometimes supported by reference to such definitions of distinguished publicists, as

“The legitimacy of all laws originate not in the will of him or them who make the laws, whoever they may be, but in the conformity of the laws themselves to truth, reason and justice which constitute the true law.” (Guizot).

This assertion of the subordination of the legislative power to a higher unwritten law of justice and right is not a modern suggestion.

It was the basis of the eloquent argument of James Otis, upon an application for a writ of assistance, made in Paxtons Case in 1768 before the Superior Court of Judicature for the Province of Massachusetts (Quincy's Rep. 51, Note 464).

We hear it repeated in our courts to-day, whenever a statute involving a subject of public interest is under consideration, and runs counter to the established and cherished views of a

minority, respectable enough to demand a hearing and sufficiently intelligent to picture the inconsistency between the primary and fundamental right and the objectionable statute by which such right has been invaded.

Whenever the legislature changes the old order, and public feeling is aroused upon a political, social, or economic issue, the party which fails before the legislature, is prone to appeal to the judiciary for a reversal of the legislative action.

Often the argument supporting such appeal is deduced from certain general clauses in the Federal Constitution, by which every State has been guaranteed a republican form of government, and the citizen is assured the equal protection of the laws, and warranted against deprivation of life, liberty and property without due process of law. But these clauses of the Constitution have received a settled judicial construction, limiting their operation to the protection of the States from the creation of imperial, monarchical or aristocratic forms of government as opposed to the republican form, and for securing to individuals enjoyment of life, liberty and property subject to an orderly and impartial administration of law.

When no help can be found in these general phrases, the judicial conscience is appealed to, as the ultimate guardian of the people's rights, and the argument is supported by venerable and high authority.

There is an old saying that "it is the part of a great judge to magnify his jurisdiction." This is often very persuasive, but it is a dangerous sentiment. It appeals to the intoxicating sense of exercising supreme power. The judge who accepts the conclusion is promoted from the limited sphere incident to the ordinary administration of judicial work to the high plane of measuring the right and wisdom of legislation by his own individual standard of what is right, wise and in harmony with fundamental principles of natural justice.

It would be a great mistake, however, to assume that this broad view of the power of the judiciary is only presented by litigants who find themselves unable to sustain their position



upon any surer foundation. It has the seeming support of the great names of Coke, Hobart and Holt; and the *dicta* of these sages of the law are referred to with not unjustifiable confidence as sustaining the power of the court to abrogate any statute which to the mind of the judge clearly violates principles of natural right.

The citation most often heard is from Lord Coke in Dr. Bonham's case (8 Coke 114a), for false imprisonment against the president and censors of the College of Physicians of the City of London. The defendants justified under the charter of the College whereby the censors of the College were given power to fine any person who practiced medicine in the city without their certificate, and to enforce the fine by imprisonment.

Lord Coke held the plea insufficient, and among other things said :

"And it appears in our books, that in many cases, the common law will control acts of parliament, and sometimes adjudge them to be utterly void; for when an act of parliament is against common right and reason, or repugnant, or impossible to be performed, the common law will control it, and adjudge such act to be void; and therefore in 8 E 330 a. b. Thomas Tregor's case on the statutes of W. 2 c. 38 *at artic' super chartas* c. 9 Herle, saith, some statutes are made against law and right, which those who made them perceiving, would not put them in execution."

In a note Lord Ellesmere criticises the judgment of Coke, but it is supported by the manuscript observations of Sergt. Hill and by the opinion of Holt, C. J., in *City of London vs. Wood* (12 Mod. 669).

"What my Lord Coke says in Dr. Bonham's case in his 8 Co., is far from extravagancy, for it is a very reasonable and true saying, that if an act of parliament should ordain that the same person should be party and judge, or, which is the same thing, judge in his own cause, it would be a void act of parliament; for it is impossible that one should be judge and party, for the judge is to determine between party and party, or between the government and the party; and an act of parliament can do not wrong, though it may do several things that

look pretty odd, for it may discharge one from his allegiance to the government he lives under, and restore him to the state of nature; but it cannot make one that lives under a government judge and party."

In *Day vs. Savadge*, Hobart 85 a, the question before the court being as to proof of the customs of the City of London, it was contended on behalf of the City Corporation that proof of these customs should be by the certificate of the Mayor and Alderman of the city, and the statute was referred to as supporting this claim. Lord Hobart said:

"It appears that the custom of certificate of the customs of London is confirmed by parliament, yet an act of parliament made against natural equity, as to make man judge in his own case, is void in itself, for *jura naturæ sunt immutabilia* and they are *leges legum*."

Judicial utterances questioning the doctrine of legislative omnipotence are not confined to the other side of the water.

In *Calder vs. Bull* (3 Dallas 387) Mr. Justice Chase said:

"I cannot subscribe to the omnipotence of a State legislature, or that it is absolute and without control; although its authority should not be expressly restrained by the constitution, or fundamental law, of the State \* \* \*."

There are acts which the Federal, or State, Legislature cannot do, without exceeding their authority. There are certain vital principals in our free Republican governments, which will determine and overrule an apparent and flagrant abuse of legislative power; as to authorize manifest injustice by positive law; or to take away that security for personal liberty, or private property, for the protection whereof the government was established. An act of the legislature (for I cannot call it a law) contrary to the great first principles of the social compact, cannot be considered a rightful exercise of legislative authority. The obligation of a law in governments established on express compact, and on republican principles, must be determined by the nature of the power on which it is founded."

And in *Fletcher vs. Peck* (6 Cranch 135), Mr. Chief Justice Marshall said:

"It may well be doubted whether the nature of society and of government does not prescribe some limits to the legislative power \* \* \*.

"To the legislature all legislative power is granted; \* \* \* How far the power of giving the law may involve every other power, in cases where the Constitution is silent, never has been, and perhaps never can be, definitely stated."

In the argument of Daniel Webster in *Wilkinson vs. Leland et al.* (2 Peters 647), is found the following passage:

"Though there may be no prohibition in the constitution, the legislature is restrained from committing flagrant acts, from acts subverting the great principles of republican liberty, and of the social compact; such as giving the property of A to B. Cited 2 Johns. 248; 3 Dall. 386; 12 Wheaton 303; 7 Johns. 23; 8 Johns. 511."

And Mr. Justice Story in deciding the case said:

"In a government professing to regard the great rights of personal liberty and of property, and which is required to legislate in subordination to the general laws of England, it would not lightly be presumed that the great principles of Magna Charta were to be disregarded, or that the estates of its subjects were liable to be taken away without trial, without notice, and without offence. Even if such authority could be deemed to have been confided by the charter to the General Assembly of Rhode Island, as an exercise of transcendental sovereignty before the Revolution, it can scarcely be imagined that the great event could have left the people of that State subjected to its uncontrolled and arbitrary exercise. That government can scarcely be deemed to be free where the rights of property are left solely dependent upon the will of a legislative body, without any restraint. The fundamental maxims of a free government seem to require that the rights of personal liberty and private property should be held sacred. At least no court of justice in this country would be warranted in assuming that the power to violate and disregard them—a power so repugnant to the common principles of justice and civil liberty—lurked under any general grant of legislative authority, or ought to be implied from any general expressions of the will of the people. The people ought not to be presumed to part with rights so vital to their security and well being, without very strong and direct expressions of such an intention."

I believe the bar of the United States recognize Mr. Justice Miller as the great expounder of the Constitution after the days of Marshall.

In *Loan Association vs. Topeka* (20 Wallace 662) he said :

"It must be conceded that there are such rights in every free government beyond the control of the State. A government which recognized no such rights, which held the lives, the liberty and the property of its citizens subject at all times to the absolute disposition and unlimited control of even the most democratic depository of power, is after all but a despotism \* \* \*.

The theory of our governments, State and National, is opposed to the deposit of unlimited power anywhere. The executive, the legislative and the judicial branches of these governments are all of limited and defined powers.

There are limitations on such power which grow out of the essential nature of all free governments. Implied reservations of individual rights, without which the social compact would not exist, and which are respected by all governments entitled to the name."

These general remarks were in connection with a judgment that the exercise of the taxing power to aid a private business enterprise was in excess of the power delegated to the legislature to raise money by taxation.

So in the case of the *Regents of the University of Maryland vs. Williams* (9 Gill & J. 365), in holding that the legislature had no power to alter or amend a corporate charter without regard to the protection claimed under the prohibition of the Federal Constitution against any impairment of the obligation of a contract, C. J. Buchanan said :

"A fundamental principle of right and justice inherent in the nature and spirit of the social compact restrains and sets bounds to the power of legislation, which the legislature cannot pass without exceeding its rightful authority. It is that principle which protects the life, liberty and property of the citizens from violation in the unjust exercise of legislative power."

The early Connecticut cases are interesting because until 1818 the State had no constitution except such as might be

found in the early charter granted by Charles II. Its courts therefore had to consider the validity of legislative action unhampered by any expressed restrictions except those contained in the Federal Constitution.

In *Goshen vs. Stonington* (4 Conn. 209), it was said :

"With those judges who assert the omnipotence of the legislature, in all cases, where the constitution has not interposed an explicit restraint, I cannot agree. Should there exist, what I know is not only an incredible supposition, but a most remote improbability, a case of the direct infraction of vested rights, too palpable to be questioned, and, too unjust to admit of vindication, I could not avoid considering it as a violation of the social compact, and within the control of the judiciary. If, for example, a law were made, without any cause to deprive a person of his property, or to subject him to imprisonment; who would not question its legality, and who would aid in carrying it into effect?"

Again in *Welch vs. Wadsworth* (30 Conn. 155):

"But the power of the legislature in this respect is not unlimited. They cannot entirely disregard the fundamental principles of the social compact. Those principles underly all legislation, irrespective of constitutional restraints, and if the act in question is a clear violation of them, it is our duty to hold it abortive and void."

And in *Wheeler's Appeal from Probate* (45 Conn. 315), after referring to the broad powers of the legislature in that State, which is said to be "unrestricted in power and as omnipotent in a legal sense as the British Parliament," the court concludes in these words :

"If then an act of the State legislature is not against natural justice, or the National Constitution, and it does not appear affirmatively and expressly that there is some provision in the Constitution forbidding it, we must hold it to be *intra vires* and valid,"

indicating that there are certain undefined limitations resting on natural justice which the courts will enforce when the occasion arises.

But, notwithstanding the great names invoked to support this doctrine, it has been rejected by the courts in this country

with great unanimity, whenever it has been necessary to make it the real ground of a decision; and an examination of the cases from which the opinions just quoted are taken shows, that if there was really an intention to assert that the judiciary have power to annul a statute because violative of the principles of natural justice and apart from express constitutional restriction, the remarks were *obiter dicta*.

It has been questioned whether Lord Coke ever intended to assert the doctrine as one defining the constitutional power of the judiciary as against the legislature, but it is pointed out that he rather meant to state a rule for the construction of statutes which upon first reading might appear contrary to common right and common sense. All would agree that it is the duty of the court in applying a statute, to assume that the legislature intended to prescribe rules of conduct and action which would be in accordance with principles of natural justice and the dictates of common sense, and hence that a judge should be astute to find a construction of the words of the statute which would not do violence to these principles. It would appear that Lord Coke in later utterances gave this meaning to his words in *Bonham's case*. (See notes to *Paxton's case*, Quincy's Rep. 474. Appendix I J).

This view has the approval of Chancellor Kent, who remarked in *Dash vs. Van Kleeck* (7 Johnson [N. Y.] 502):

"A statute is never to be construed against the plain and obvious dictates of reason. The common law, says Lord Coke (8 Co. 118 a), adjudgeth a statute so far void; and upon this principle the Supreme Court of South Carolina proceeded, when it held (1 Bay 93) that the courts were bound to give such a construction to a statute as was consistent with justice, though contrary to the letter of it."

This understanding of Coke's doctrine is expressed in *People vs. Gallagher* (4 Mich. 244), where, in referring to the great difficulty of defining with any degree of certainty what these natural rights are, it was said:

"No light can be thrown upon it by an examination of the English authorities. Parliament is omnipotent, and although

it may pass a law in direct violation of every right of the subject, if the language is clear and incapable of construction, there is no court in the kingdom which has the power to pronounce it void. The extent of the power of the courts is the power of construction, which they will exercise when the law is expressed in doubtful terms, and this is all that is to be understood from the language of Lord Coke in Dr. Bonham's case, reported in the 8 of Coke R. 118 a."

Regard to this principle will save courts from many inconsistencies and will secure an administration of law tempered with wisdom and reason.

The South Carolina case, just referred to, is interesting and instructive. In 1788 a statute had been enacted prohibiting the importation of negroes as slaves and prescribing their forfeiture and a fine in case of violation. A family from British Honduras emigrated to South Carolina, bringing their slaves with them, and it was contended this was an importation of slaves prohibited by the statute. The Court held it was not within the spirit of the law, which was to put an end to the slave trade and the importation of negroes by residents of the State, saying:

"It is clear that statutes passed against the plain and obvious principles of common right, and common reason, are absolutely null and void as *far as they are calculated to operate against those principles*. In the present instance, we have an act before us, which, were the strict letter of it applied to the case of the present claimants, would be *evidently against common reason*. But we would not do the legislature who passed this act so much injustice as to sit here and say that it was their intention to make a forfeiture of property brought in here as this was. We are, therefore, bound to give such construction to this enacting clause of the Act of 1788, as will be consistent with justice and the dictates of natural reason, though contrary to the strict letter of the law; and this construction is, that the legislature never had it in their contemplation to make a forfeiture of the negroes in question, and subject the parties to so heavy a penalty for bringing slaves into the State, under the circumstances and for the purposes, the claimants have proved." (*Ham vs. McClaws*, 1 Bay [S. C.] 93).

A similar statute in Pennsylvania, designed to prevent the forcible carrying of negroes from Pennsylvania for sale in other States, was construed by the Supreme Court of Pennsylvania in 1795, and the court recalled and applied the felicitous illustration of Sir William Blackstone of the Bolognian Law against shedding blood in the streets. In construing a statute, the consequences and effects of its construction must be weighed by the court.

"The more comprehensive exposition, so warmly expressed on the part of the state, reminds us of the attempt under the Bolognian law mentioned by Puffendorf, which enacted, 'that whoever drew blood in the streets should be punished with the utmost severity,' that a surgeon who opened the vein of a person that fell down in the street with a fit, had incurred the penalty of the law. But after *long debate*, it was held not to extend to the surgeon. 1 Bl. Com. 60!" (*Respublica vs. Richards*, 1 Yeates 480).

The language of Marshall, Story and Chase and the Connecticut courts must also be read in the light of the question before the court, and in connection with other portions of the opinions and the judgments entered. It will then be seen that no extreme view of the judicial power to revise legislative action was maintained.

In *Calder vs. Bull*, the question was, whether an act of the legislature of Connecticut granting a new trial in a contested will case violated any constitutional right of the parties as an *ex post facto* law. The judgment of the court was that such a statute was not unconstitutional. In this case the words *ex post facto* first obtained an authoritative definition, and were held not to be equivalent to retrospective; it was held that retrospective legislation was not necessarily invalid, although every statute should be construed to be prospective, unless the legislative intent to make it retrospective was clear. The language of Justice Chase, when read with the context, may reasonably be regarded as intended only to assert the existence of constitutional limitations upon the legislative power. When that opinion was written the right of the judiciary to enforce



even express constitutional limitations had not been firmly established. The opinion does show that Justice Chase had no doubt of the principles which were afterwards established in *Marbury vs. Madison*.

In *Fletcher vs. Peck*, the question was as to the power of the legislature to annul a grant of land under which title had vested and possession been taken. The court held that a grant is a contract executed, and a statute purporting to annul the grant was unconstitutional, because it was a law impairing the obligation of a contract within the meaning of the express constitutional prohibition; and the language of Marshall well may have been intended only to state the principles controlling the relative functions of the legislature and judiciary in a constitutional government. This is not inconsistent with the doctrine that for a definition of the limitations upon legislative power, reference must be made to the written constitution which is the chart and guide of the judiciary.

In *Wilkeson vs. Leland*, the question was the validity of an act of the legislature of Rhode Island, confirming the title of the grantee of an executrix, who had sold the land of a decedent for payment of debts. The validity of the statute was sustained, and the remarks of Justice Story heretofore quoted were simply an historical review of the nature of constitutional government in England as continued in Rhode Island, where at the time of that decision, in 1829, there was still no written constitution, and the legislature was still exercising the legislative powers originally granted by Royal Charter. Under such conditions Justice Story was of opinion that the fundamental rights guaranteed by Magna Charta were recognized as continuing of force in Rhode Island; for the power to legislate granted by Royal Charter was in accordance with the laws of England; but the question of how far the judiciary might annul a statute when in derogation of these unwritten rights, did not really arise, as the statute was held to be in harmony with fundamental principles of right.

In the Connecticut cases the question was as to the validity of retrospective legislation, particularly of legislation confirming a marriage which in its inception was unlawful, and the right of the legislature to make a law which might operate on antecedent legal rights, was affirmed. The remarks of the court upon the abstract proposition were therefore *obiter dicta*.

Having referred to some of the authorities which are relied upon to sustain the right of the judiciary to assume the protection of the community from unwise and oppressive legislation, even though no conflict be shown with express constitutional provision, it is proper now to state that the accepted view of the American courts is that the judiciary can only arrest the execution of a statute when it conflicts with the provisions of the written constitution and that the courts may not run a race of opinion with the law-making power upon points of right reason and expediency. The possibility that the legislature may enact unwise and unjust statutes does not carry with it the existence of a power in the judiciary to declare the un wisdom and correct the injustice. The exercise of a discretionary power, broad and comprehensive enough to meet the exigencies and wants of a great nation must carry with it the power to do both good and evil.

We have noticed the remarks of Justice Chase in *Calder vs. Bull*. In the same case Mr. Justice Iredell expressed the other view :

“If, then, a government composed of legislative, executive and judicial departments, were established by a constitution which imposed no limits on the legislative power, the consequence would inevitably be, that whatever the legislative power echos to enact would be lawfully enacted, and the judicial power could never interpose to pronounce it void.”

In an early case the Court of Appeals of New York stated the principles which have been adopted and enforced in nearly every State. We can do no better than to state its conclusions in its own words :

“Every sovereign State possesses, within itself, absolute and unlimited legislative power. It is true that, as government is

instituted for beneficent purposes and to promote the welfare of the governed, it has no moral right to enact a law which is plainly repugnant to reason and justice. But this principle belongs to the science of political ethics, and not that of law. There is no arbiter, beyond the State itself, to determine what legislation is just \* \* \*.

"In a perfectly natural and simple distribution of the governmental powers it is not within the province of the judiciary to pronounce any act of the legislature void. It may, however, acquire this right through an artificial distribution of those powers, by means of the organic law \* \* \*.

"To determine, then, the extent of the law-making power, we have only to look to the provisions of the Constitution. It has, and can have, no other limit than such as is there prescribed; and the doctrine that there exists in the judiciary some vague, loose and undefined power to annul a law, because, in its judgment, it is 'contrary to natural equity and justice,' is in conflict with the first principles of government \* \* \*.

"This power of determining what laws are expedient and just, which must of necessity be lodged somewhere, may be as safely reposed in the legislature, which returns its power so frequently through the elections into the hands of the people, as in the judiciary. The remedy for unjust legislation, provided it does not conflict with the organic law, is at the ballot-box; and I know of no provision of the constitution nor fundamental principle of government which authorizes the minority, when defeated at the polls, upon an issue involving the propriety of the law, to appeal to the judiciary and invoke its aid to reverse the decision of the majority and nullify the legislative power \* \* \*.

"I am opposed to the judiciary attempting to set bounds to legislative authority, or declaring a statute invalid upon any fanciful theory of higher law or first principles of natural right outside of the Constitution. If the courts may imply limitation, there is no bound to implication except judicial discretion, which must place the courts above the legislature and also the Constitution itself. This is hostile to the theory of the government. The Constitution is the only standard for the courts to determine the question of statutory validity." (*Wynehamer vs. The People*, 13 N. Y. 428).

This is not the time or place to collect the mass of authority which may be found in the Federal and State Reports in which the same doctrine has been applied.

A few general propositions may be stated which, with slightly varying language, have been announced in many courts, and may be confidently asserted to embody the accepted view of the law.

The fact that the action of the legislature is unwise, unjust, oppressive, or violative of the natural or political rights of their citizens, cannot be made the basis of action by the judiciary. It is no part of the business of courts to discuss the wisdom of legislation. However vicious in principle it may be, it is the plain duty of the court to enforce it, provided it is not in conflict with the written constitution. The motives of the legislators, real or supposed, in passing an act, are not open to judicial inquiry or consideration. With these the courts have nothing to do, being beyond their province, and such considerations are to be addressed solely to the legislature. The court is not authorized to sit as a council of revision to set aside or refuse assent to ill-considered, unwise, or dangerous legislation. Their only duty and their only power is to scrutinize the act with reference to its constitutionality, to discover what, if any, provision of the constitution it violates. If the legislature should pass a law in plain, unequivocal and explicit terms, within the general scope of their constitutional powers, there is no authority under our form of government to pronounce such an act void merely because, in the opinion of the judicial tribunals, it is contrary to principles of natural justice. To admit this power would be vesting in the court a latitudinarian authority which would necessarily lead to collisions between the legislative and judicial departments, dangerous to the well being of society, and not in harmony with our theory of the division of the powers of government.

Courts cannot nullify an act of legislation on the vague ground that they think it opposed to a general "latent spirit"

supposed to pervade or underlie the Constitution. To do so would be to arrogate the power of making the Constitution what the court may think it ought to be, instead of simply declaring what it is. The exercise of such a power would make the court sovereign over both Constitution and people, and convert the government into a judicial despotism. Whilst legislative power can only be exercised within the limits prescribed by the Constitution, the court is equally bound to keep within the sphere allotted to it by the same instrument. Judge Cooley, in speaking of limitations upon legislative authority, well says:

“Some of these are prescribed by constitutions, but others spring from the very nature of free government. The latter must depend for their enforcement upon legislative wisdom, discretion and conscience.”

The supremacy of the legislature within the field of its constitutional powers does not derogate from the dignity and power of the judiciary in its appointed work.

Upon the State legislature has been conferred the whole law-making power of the State except that which has been specially delegated to the National Congress. This law-making power, however, must be exercised subject to the limitations and prohibitions of the Constitution, which, as a permanent and paramount law settled by the deliberate will of the people as ultimate sovereign, curbs the will of the temporary majority and of the representatives selected to exercise the law-making power.

These constitutional restrictions it is the duty of the judiciary to make effective, whenever a litigant asserts a right or defends his action under a statute passed in derogation of the Constitution; but this is not because the judiciary have any control over the legislative power, but because the act is forbidden by the Constitution, and the Constitution is the paramount law.

In England, under the unwritten constitution, Parliament might be regarded as the highest court. As the House of

"A legislative mandate to change the settled interpretation of a statute, and uproot titles depending on past adjudications, or a legislative direction to perform a judicial function in a particular way, would be a direct violation of the Constitution, which assigns to each organ of the government its exclusive function and a limited sphere of action. A court could not be bound by a mandate to decide a principle or a cause in a particular way. Such a mandate would be a usurpation of judicial power, and more intolerable in its exercise than a legislative writ of error, because the losing party would be concluded by it without being heard." (*O'Conner vs. Warner*, 4 W. & S. 227).

An interpretation by one legislature of a statute written by another legislature years before would be an adjudication of the private rights which have arisen under it. A legislature has no authority to change the laws of language. If given language does not express a given meaning, the legislature may use other language that does; but this will not change the meaning of the former language. In the very nature of language that is impossible. (*Reiser vs. The William Tell Saving Fund Association*, 39 Pa. St. 144.)

But while the court may not by expository legislation affect vested property rights, it is well settled that curative and remedial legislation, such as that validating deeds and other muniments of title defectively acknowledged or recorded, or validating issues of municipal bonds when a popular vote has been informally taken, are proper exercises of the legislative power. (*McMullen vs. Lee County*, 6 Iowa 391.)

There is also a large power over the remedy, and the legislative power has been upheld to direct by special statute the transfer of an indictment then pending from one district to another. (*People vs. The Judge*, 17 Cal. 547.)

So a legislature unfettered by constitutional restrictions may exercise the power of confiscation.

In 1782 when there was no expressed limitation upon the legislature of Georgia, a statute was enacted confiscating the estates of persons guilty of treason, and this was sustained by

the Supreme Court of the United States as a proper exercise of the legislative power. (*Cooper vs. Telfair*, 4 Dall. 18.)

Now the Federal Constitution and most of the State Constitutions forbid any bill of attainder, whereby corruption of the heritable blood may be affected, but the numerous cases arising during and since the civil war under the confiscation acts of 1862 show a continued recognition of the scope of the legislative power.

The courts may not declare a statute void because of supposed repugnancy to the pervading spirit of the Constitution; it seems, however, that an act of the legislature can be declared void, though not transgressing the letter of any specific provision, because violating the spirit of the Constitution as deduced from that which is written. Yet such implied violation is exceptional, and must be made to appear beyond reasonable doubt. It is illustrated in *Page vs. Allen* (58 Pa. St. 338), when in referring to the constitutional provision that the executive power is lodged in a Governor, Thompson C. J. said:

“It would be manifestly repugnant to these provisions of the Constitution if an Act of Assembly should provide for the election of two executives at the same election, yet it would be unconstitutional only by implication, there being no express prohibition on the subject.”

It may be stated, as a rule, that the limitations which are enforced are those found in the express terms of the Constitution, or which arise by necessary implication from that which is expressed.

There is an interesting discussion of limitations to be implied from those which are directly expressed, in *State vs. Moores* (55 Nebraska 490), where, quoting Von Holst, the court said:

“The legislative power of the State Legislature, is unlimited as far as no limits are set to it by the Federal or the State Constitution.” This does not mean, however, that these restrictions must always be expressed in explicit words. As

it is generally admitted that the factors of the Federal government have certain "implied powers," so it has never been disputed that the State Legislatures are subject to "implied restrictions," that is, restrictions which must be deduced from certain provisions of the Federal, or the State Constitution, or that arise from the political nature of the Union, from the genius of American public institutions."

And further quoting Cooley on Constitutional Limitations, the opinion proceeds :

"It does not follow, however, that in every case the courts, before they can set aside a law as invalid, must be able to find in the Constitution some specific inhibition which has been disregarded, or some express command which has been disobeyed. Prohibitions are only important where they are in the nature of exceptions to a general grant of power ; and if the authority to do an act has not been granted by the sovereign to its representatives, it cannot be necessary to prohibit its being done."

It may also confidently be said that American citizens living under the protection of the Federal and several State Constitutions do not need to invoke the protection of any doctrine of implied limitations upon legislative power. There are express constitutional provisions which can be relied upon to protect us in all the fundamental rights of freemen.

By the Federal Constitution, the citizen is guaranteed the protection of habeas corpus ; freedom from bill of attainder and *ex post facto* legislation ; freedom in religion ; the right to peaceably assemble and petition for a redress of grievances ; to bear arms ; to be secure against unreasonable searches and seizures ; not to be required to answer for a capital or other infamous crime, unless on the presentment or indictment of a grand jury, and in all criminal prosecutions to enjoy the right of a speedy and public trial by an impartial jury, with safeguards in the trial of the presence of adverse witnesses and assistance of counsel for defence. These guarantees, when coupled with the comprehensive clause that a citizen shall not be deprived of life, liberty and property without due pro-



cess of law, nor shall private property be taken for public use without just compensation, leave few imaginable cases, where natural rights are not directly within the protection of the written Constitution.

Similar guarantees are given to the citizen in his relation to the State by the several State Constitutions; and in many States numerous express limitations upon the legislative power protect the citizen in the undisturbed possession of property, and the exercise of all rights and privileges, which are regarded as the inalienable rights of freemen.

The courts never have shrunk from the duty of sustaining these expressed constitutional rights in all their vigor. The courage which induced John Marshall to say :

“That this Court does not usurp power is most true. That this Court dares not shrink from its duty is not less true,”

has been the spirit not only of his successors in that high tribunal, but of the larger circle, who perhaps, not in the eye of the nation, but each in his own vicinage, have administered the law without fear or favor; so that the roll of the American judiciary is one which the nation justly delights to honor.

While it may be true as an abstraction, that there are certain absolute rights, and the right of property among them, which in all free governments must of necessity be protected from legislative interference, irrespective of constitutional checks or guards; that protection in the absence of constitutional limitation must be found in legislative fidelity and adherence to the principle of free institutions. If recreant, an appeal to the people is the only remedy.

If it could be conceived that a legislature should enact a statute within the general powers of legislation, not violating any express provision of the Constitution, but abhorrent to the common sense of all right-minded men—there is no immediate relief against such a statute within the Constitution. Those who come within its operations are left to the last resort which the Anglo-Saxon does not rashly permit himself even to

contemplate. Revolution is always at the responsibility of those who undertake it. Failure of all other remedies, and ultimate success alone, warrant the step. Happily, the express limitations of our Constitution would seem to be an effectual barrier against any legislation, so abhorrent to common right as to arouse a sense of wrong inciting to this last mode of relief.

The assumption of authority beyond that of applying the terms of the written Constitution to each case as it arises, would be to place in the hands of the judiciary power too great and too undefined either for its own security and permanency, or the protection of private rights. In no case should a judge oppose his own opinion to the clear law and declaration of the legislature so long as it acts within the pale of constitutional competency.

Courts of justice are said in the *Federalist* to be "the bulwarks of a limited constitution designed to keep the legislature within the limits assigned to their authority." By applying to legislation the tests of constitutional limitations, it has been possible in our land to realize the workings of free representative government as stated by Guizot.

"Liberties are nothing until they have become rights—positive rights formally recognized and consecrated. Rights, even when recognized, are nothing so long as they are not entrenched within guarantees. And lastly, guarantees are nothing so long as they are not maintained by forces independent of them in the limit of their rights. Convert liberties into rights, surround rights by guarantees, entrust the keeping of these guarantees to forces capable of maintaining them—such are the successive steps in the progress toward a free government."

But to enlarge the functions of the judiciary into a general power of reviewing the work of the law-making body, with no certain guide except considerations of right, equity and justice, as conceived by the reviewing court, deprives the community of the advantages of the division of legislative and judicial functions between separate bodies.

We may give our unqualified assent to the sentiment presented by Lafayette to the French Assembly :

“The end of all political association is the preservation of the natural and imprescriptible rights of man, and these rights are liberty, property, security and resistance of oppression.”

But the definition of the rules whereby liberty is to be enjoyed by each citizen without trespassing upon the rights of others, and how property shall be used so that it be not injurious to a neighbor, are matters which are strictly within the scope of the law-making power.

At common law, in the absence of legislation, the maxim

*“ Sic utere tuo ut alienum non lædas ”*

may be sufficient to enable a court to guide a jury to do justice between citizens; but the ability of a court and jury to state and apply the common law, is not exclusive of the power of the law-making body to modify the law or apply it to the changing conditions of a developing community.

The legitimacy of the laws must rest in the will of the law-making body.

In the inaugural address of President Jefferson is an expression which has been copied into the Bills of Rights, which are a part of the constitutions of several states ;

“That a frequent recurrence to the fundamental principles of civil government is absolutely necessary to preserve the blessings of liberty.”

It should, therefore, not be forgotten that the powers of the judiciary, as well of the legislature, have their limitations.

The real and enduring power of the judiciary should not be impaired by a usurpation of powers, the responsibility for the exercise of which rests with the legislature. The interests of the public at large, as well as the rights of individual citizens, will be best conserved by always keeping clearly in view where the responsibility for unjust or unwise legislation rests. The supremacy of the legislature, so long as its acts do not contravene defined constitutional limitations, does not relieve it from the obligation to legislate in conformity with those rules

of truth, reason and justice which, according to Guizot, constitute the true law. The difference, between the view which is the accepted American view and that seemingly announced by Lord Coke, is, that such limitations upon the legislative power as spring from natural justice and equity and the principles of free government, must depend for their enforcement upon legislative wisdom, discretion, and conscience. Supremacy of the legislature to legislate within the limits of its constitutional power, does not mean irresponsibility. Legislators are representatives and agents with limited terms and must answer to their constituents—the people—for the exercise of their delegated powers. While the power of the legislature, subject to the expressed constitutional limitations, may not be questioned before judicial tribunals, the propriety of their acts may be reviewed on election day, and the sovereign may then correct every departure from the all-pervading spirit of free institutions. We believe the judiciary can best accomplish its appointed work by turning a deaf ear to all arguments which seek to impose upon it the duty of revising the work of the legislature, upon the plea that natural right, justice, equity, and the latent spirit of the Constitution and free government may control. Admitting such considerations would impose upon the courts a duty not judicial in its nature; the determination not of what the law is, but what it should be. Judges are not selected with a view to any such duty. I do not say that many of them may not in fact be well fitted for its performance, but they are not chosen for it. The determination of what the law should be under our theory of government is for the people, speaking through their appointed representatives in legislature assembled.

The conclusion would seem to be: the law-making power has been entrusted solely to the legislature, and it is not responsible to any other tribunal for the exercise of its discretion. Through this body, the people express and make effective their desires for a change in the law, and when this is done in clear and unmistakable language, the judiciary have no duty

to pass upon the wisdom or expediency of the statute. To assume such a duty is a usurpation of power, and an attack upon the integrity of constitutional government.

Fellow members of the American Bar Association. We have all been sworn to support the Constitution of the United States and the Constitutions of our several commonwealths. This Association is the the representative body of the bar of the United States. Upon the fidelity of the American bar to sound views of government, depends in great measure the future of republican government. In one sense, the bar receives the law from the bench, but in a larger sense, the law announced from the bench is that which the bench has received from the bar. In order, therefore, that the blessings of liberty may be preserved for us and those who may come after us, let the bar at all times clearly distinguish between the legislative and judicial functions; let its influence always be exerted to perpetuate the high powers of the judiciary by never encouraging any invasion of that field which the Constitution has entrusted to the legislature. Thus only will our government be perpetuated as "a government of laws and not of men."

# THE EVOLUTION OF MINING LAW.

BY

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*A body of substantive law, providing for, and controlling the acquisition and enjoyment of, mining rights upon the public domain, created by local customs and regulations of the miners, territorial, state and federal legislation, and the adjudications of the courts construing these usages, regulations and statutes, is designated generally as AMERICAN MINING LAW.*

At the date of the ratification of the treaty of Guadalupe Hidalgo, which was concluded February 2, and proclaimed July 4, 1848, there was no general legislation of the United States, accepted as, permitting, or regulating the acquisition by individuals of rights in gold and silver mines upon the public lands. Experimental legislation had been indulged in by Congress, but it had not been satisfactory in its results, and contemplated no such condition as existed in California. The discovery of gold there upon government lands, and the wonderful emigration to that country, with the attendant extended mining operations and speedy extraction and conversion of immense gold values, made necessary definite and authoritative laws fixing the relative rights of the hundreds of thousands of miners seeking and exploring these new gold fields.

Within the fifty years which have elapsed since the evocation of this necessity, there has originated, grown up, and been developed to a state of substantial completion, a system of law governing vast estates and interests which has been the subject of frequent, extended and costly litigations. This growth,

development or evolution of fifty years equals the accomplishment in other branches of the law of centuries of custom, legislation and decision. The rapidity of this development has been due to the exigent demands for it; to speedy means of travel and communication; the easy extraction and speedy dispersion of values, and resulting demand for instant determination of titles and disputes, and largely to that federal legislation which in presenting the right of securing complete title by the claimant, provided a procedure commanding the assertion of adverse claims by all who might question the right of the applicant and thereby prevented the further slumbering of dormant claims and the deferred determination familiar under the prescriptions and limitations in other branches of the law.

The discovery of new gold fields, as always in the history of the world, induced sudden and enormous movement to the new territory, the tidings of whose wealth and the ease with which it might be acquired had been rapidly carried to remote regions.

The mixed character of the inhabitants of this new territory, gathered from all quarters of the globe, bringing with them ideas of law and right with reference to mining peculiar to their own sections, with freedom from interference by the general government owning the land and having the only title to the mineral contained in it, gave an opportunity to those initiating and framing legislation to select from the mining codes of all the world their best elements, so far as applicable to the peculiar surroundings of the new situation, whilst the strong sense of right and independence with which this strange gathering was imbued freed their minds from the conventional ideas of particular systems of law, broke the fetters of tradition which would have affected legislation in older and more settled communities, left them freer to act promptly and directly and to choose those regulations which they might determine to be best after discussion, as fairest to all, where all were recognized as equals.

Among the early miners of California were to be found those who came from the western borders of American civilization, from the middle territory, from the seaboard, from every calling, avocation and profession of life, and with the varied experiences, views, traditions and temperaments of their sections, and as well miners from the western coast of Mexico, South America and Europe. The rich rewards which slight efforts had won from the earth excited the highest hopes and most sanguine expectations. Everything yielded to an effort to realize dreams of enormous wealth to be speedily acquired. The law, the pulpit, the counting-house, the army, the forum, the farm, the mine—all contributed to this inpouring into the new territory, not that here might be taken up again the business laid aside, but that all might engage in eager efforts to speedily amass fabulous fortunes. With all this variety of origin and eagerness for the acquisition of wealth, there was a general spirit of honesty, fairness and respect for law and order, and a desire that the opportunities which were presented by these new discoveries might be equitably distributed among these new Argonauts. Those familiar by participation with these early times, and those who have made them a study, have repeatedly, in vigorous and eloquent phrase, pronounced the highest eulogy upon the law-observing spirit of the general mass of the gold-seekers. They were overwhelmingly American, with a large endowment of the national genius for organization and state-building.

The laws of Mexico, derived substantially from Spain, concerning the exploration of mineral lands and acquisition of rights therein, ceased to exist in this territory upon its acquisition by the United States, and one of the first acts of Colonel Mason, military governor, was to declare, on the 10th of February, 1848, immediately after the signing of the treaty of peace, and but a few days after Marshall's discovery of gold at Coloma, that "from and after this date the Mexican laws and customs now prevailing in California relative to the denouncement of mines are hereby abolished." This proclamation was



accepted by the miners as authoritative, and fourteen years later was by the Supreme Court of the United States recognized as a correct but unnecessary declaration of the law.

California remained under military government until its admission as a state by the act of September 9, 1850. The ownership of the mineral in the public land was in the United States; the taking of it was a trespass; but the failure of Congress to legislate with reference to it, under the conditions surrounding the new and increasing population of the gold fields of California, led to the creation of a new mining system, which disregarded this paramount title of the general government. Governor Mason announced the true situation in this language:

"The entire gold district, with few exceptions of grants made some years ago by the Mexican authorities, is on land belonging to the United States. It was a matter of serious reflection with me how I could secure to the government certain rents or fees for the privilege of procuring this gold. But upon considering the large extent of the country, *the character of the people engaged, and the small, scattered force at my command, I am resolved not to interfere, but to permit all to work freely.*"

The government of the miners was in form a pure democracy, in which all were voters, lawmakers and triers of causes by right. The doctrine of delegated representation came much later. The great desire for wealth—the *auri sacra fames*—worked upon natures as strong and passionate in the early discovery and operation of gold mines in California and the West, as at any time in the history of the race. Controversies arose, intrigues were set on foot, the strong hand was lifted to assert, maintain or take away rights, and there was early recognition, by the thousands who had been drawn thither by these glowing prospects of great wealth, that law of some kind must control; that rights and their enjoyment must be provided for and protected, and some authority raised up for the investigation and determination of disputes. Slow, tedious

and expensive methods of acquiring and testing rights were not in harmony with the situation ; civil government did not exist ; the military government was provisional and uncertain ; federal legislation had not been enacted and was in only remote expectancy ; the power of the territorial government was doubtful ; but this adventurous class of our people met, as their kinsmen and ancestors have always met, every emergency, with good sense, promptitude and fairness, and from their action resulted a set of usages and regulations known as the Miners' Common Law, or the Miners' Law of Right, which were inspired by such a keen sense of practical justice that they are found, upon analysis, to contain the best elements of the most carefully formed mining codes of the older world, and the best elements of the code finally enacted by federal legislation. They were the essence of common sense and justice, operating in harmony with independence, enterprise and the necessity for direct and speedy action. This system of usage and regulation has been called "a special kind of law—a sort of common law of the miners—the offspring of a nation's irrepressible march—lawless in some senses, yet clothed with dignity by a conception of the immense social results mingled with the fortunes of these bold investigators." This "miners' law" consisted of two elements, usages or customs, and direct formal legislation. Customs sprang up among the miners with reference to the rights in placers and lodes independent of the adoption of rules and regulations, and were described and characterized in 1867 by Yale in this language :

"These customs grew up by self-creation, and are not the subjects of invention or provision. They are not the ancient customs of the common law, which, to have force, must be immemorial, merely traditional, and not originating within living memory. Their force is greater because they are within living memory, and as no generation has elapsed since they have existed, are as ancient as circumstances will conveniently admit."

Failing to possess many of the requisites which Blackstone defines as essential to a good custom under the common law, they had the inherent force of fairness and the overwhelming authority of universal acceptance, and rested for their vitality upon a vigorous and prompt support and enforcement by the miners, who esteemed them, not for their antiquity, but their aptness. In addition there were the specific, conscious and declared regulations of the miners in their mining districts. These were adopted at meetings of all the miners, who selected a president to preside over their deliberations, and a secretary to make a record. The main objects of these rules and regulations, to which all other provisions were incidental, being to ascertain the boundaries of the district; prescribe the size or extent of the mining claims; require the marking upon the grounds of the limits of the claims; to compel recording with the district recorder; to prescribe the amount and character of work which should be done; and length of time that work or actual occupation might be intermitted without forfeiture of the claim; the circumstances under which the claim would be deemed to have been abandoned and opened for occupation or location by new claimants. General principles, of universal acceptance, prevailed in all the districts, and were the basis of this local legislation, producing a general uniformity, with differences in details, depending upon the peculiarity of location and the origin of the inhabitants of the several districts.

Did these miners initiate or create their regulations something after the fashion ascribed to the makers of our own Federal Constitution by Mr. Gladstone? Or did they but consciously adopt and here put in force known mining regulations of other countries, of which they were informed by tradition or reading, or by the knowledge of the inhabitants of these different lands who congregated in this new world? This is a subject of dispute. Those who adopt the views of Rousseau find here an illustration of the civil compact; others, the reproduction of laws derived intentionally from older states; others, the application of the organizing faculty

of the American people to the circumstances of their new situation. Upon the one hand it is asserted most vigorously by those familiar through participation in the work, "that the large emigration of young men who rushed to this modern Ophir, found no laws governing the possession and occupation of mines but the common law of right, which Americans alone are educated to administer; that they were forced by the very necessity of the case to make laws for themselves."

Again, it is asserted that the mining code, as far as it can be traced, has sprung from the customs and usages of the miners, with rare applications of common law principles by the courts to vary them: or that the origin of the rules and customs of the miners is immediately recognized by those familiar with Mexican ordinances and continental mining codes, and with the regulations of the Stannary convocations among the tin bounders of Devon and Cornwall in England, and the High Peak regulations of the lead mines in the county of Derby; finally, that all these regulations are founded in nature, based upon equitable principles, comprehensive and simple, have a common origin, and are matured by practice. Halleck expresses the opinion that in the main the miners adopted, as best suited to their wants, the principles of the mining laws of Mexico and Spain, by which the right of property in mines is made to depend upon discovery and development; and that discovery is made the source of title, development or working the condition of its continuance; and that these two principles constitute the basis of all their local laws and regulations. The merit of adoption, the power of perceiving their appropriateness, and willingness to enforce them, whatever the source or suggestion, or origin, belongs to the men who made these laws. At first they constituted all the law there was upon the subject; and we have here a modern instance of an original congregation of the people creating the law required by their necessities, upon the assumption that the right to legislate was inherent in the people themselves. They proceeded upon the theory that the public domain belonged to

the people; that the mineral therein was the subject of free private acquisition, as a reward for discovery and occupation, and thus defied in effect the settled traditions and laws of other countries, and the right of the United States as a government to the mineral contained in its lands. The forms adopted, the methods of operation, the ideas of right, the machinery of justice selected by these miners in their primitive, inartificial but direct and expressive resolutions, present to the student of jurisprudence and of its originals, instructive objects of investigation, since they contain the history of the formation and growth of a living system of law.

As illustrative of these regulations, and giving indicia of their general character, I present the substance of a few of them.

In the Drytown mining district, Amador County, California, in regulations adopted June, 1851, after the selection of a president, vice-president and secretary, a committee of three were appointed to prepare resolutions for the consideration of the meeting, it is provided:

*“Resolved, first,* That rules and regulations for the security, peace and harmony of the miners who are now or who may be hereafter engaged in prospecting and working quartz mines, are positively necessary.

*“Resolved, second,* That in compliance with that necessity we do hereby ordain and establish the following rules and regulations for the government of the district:

*“That the size of a claim in quartz veins shall be two hundred and forty feet in length of the vein, without regard to the width, to the discoverer or company, and one hundred and twenty feet in addition thereto for each member of the company that shall now or may be hereafter organized.*

*“That no claims shall be considered good and valid unless the same shall have been staked off in conformity with the provisions of resolution third, and written notice of the size of the claim and number of men in the company posted upon a tree or stake at each end of the claim.*

"That the size of the claim, the number of men composing the company that holds the claim, together with a brief description of the location of the same, so that it may be identified, shall, within ten days after the claim is made, be filed in the office of the justice of the peace in whose district the same may be located. And all persons holding such claims shall file the same within ten days from this meeting.

"And all persons hereafter making claims (within ten days after the claims are located), or otherwise such claims shall be forfeited."

That "whenever a claim has been abandoned and such can be clearly proven before the justice of the peace where such file was made, said claim shall be forfeited to the person or persons establishing such proof."

"That these rules, regulations and proceedings be signed by the president and secretary of this meeting and filed in the justice's office at Drytown."

In the Mariposa County resolutions, adopted on the 25th of June, 1851, it is resolved in these words :

"WHEREAS, We deem the protection of the quartz mining interest in the county of Mariposa essential to the peace of said county ; and, whereas, certain definite and fixed rules are requisite to protect said interest and the maintenance of the peace and harmony of the county ; therefore, resolved," etc.

And in conclusion :

"*Resolved*, That for the full and faithful maintenance of these rules and regulations in our country of Mariposa, we *sacredly pledge our honors and our lives.*"

In the regulations of Rich Gulch, Butte county, adopted on May 22, 1852, it is provided :

"That all disputes in regard to quartz claims shall be settled by three disinterested men, one to be chosen by each party and the third by the two chosen, who shall be governed in their decision by the laws of this district ; and, if it be desired by a party or parties, said arbitrators shall summon a jury, who shall decide the case, as before mentioned, under

the direction of the arbitrators and subject to an appeal to a general meeting of the miners."

"That all gulch, ravine and coyate diggings can be held during the dry season by recording the same until there is sufficient water to work the same.

"That no person shall be entitled to more than one claim in gulch, ravine or coyate diggings unless by purchase or inheritance.

"That the discoverer of any and all kinds of diggings shall be entitled to one extra claim."

In Upper Yuba mining district, Yuba county, California, there were regulations concerning the size of claims and the method of determining disputes, and, among others, these, which are representative in their character:

"*Resolved*, That all disputes in relation to miners' claims shall, on application by either party to the dispute, be settled by arbitration or reference, in the following manner, to-wit: The party aggrieved, or plaintiffs, shall give the other party twenty-four hours' notice. After the expiration of notice, both the parties shall choose two persons on each side, and then the persons thus chosen shall choose another, making five arbitors or referees. These five persons shall proceed to investigate the matter in dispute by hearing such witnesses of facts as can be of any benefit to either side of the question. The decision to be by the majority. At the request of either party, the arbitors and witnesses may be sworn by a justice of the peace. In case the defendant shall neglect or refuse to choose two arbitors, within twelve hours after the expiration of the first notice, they shall be defaulted. In case of an arbitration an appeal can be had to the county court.

"That no company shall monopolize a stream of water for speculation or unnecessarily use it to the injury of others."

Among the provisions contained in the Illinois mining district, Summit county, Colorado, are these:

"In case of dispute it shall be the duties of the president or secretary to summon jurors, of which there shall be nine, and

each contestant shall have the right to strike off one alternately until but three are left, who shall hear all evidence and render their verdict accordingly, which decision shall be final.

"No miner shall be entitled to a vote in this district unless he or they hold claims within the limits of this district."

Among similar regulations in Virginia mining district, Clear Creek county, Colorado, it is provided that:

"All persons holding lode claims shall work them every ten days or get the same recorded.

"Any person or company may conduct water or tailings from a sluice or tom across other claims, so it be done without injury or damage to such claims.

"The right to vote upon matters relating to mining interests in this district shall belong exclusively to miners residing or mining in said district.

"Every dispute or difficulty respecting claims or boundaries, not settled by the parties themselves, shall be decided by a jury of miners, consisting of six or more, but an appeal may be taken from their decision to the miners' court of this district, and the decision of the miners shall be final."

In these examples, which might be indefinitely multiplied, selected from the hundreds of records of mining regulations in the numerous districts of the Rocky Mountain and Pacific region, it will be observed that the essential principles recognized, and in more or less artificial form recorded, are the merit of discovery with privileges attached; necessity for possession and the reinforcement of this most precarious of titles by work and as an evidence of good faith; preventing the unproductive retention of that which was originally open to the general public; requirements for marking the claim so that all may be advised of what the first claimants assert to be their own, thus advising later comers and preventing needless conflict and claims for fraudulent purposes; a record, so that there may be preserved durable and public evidence of title and boundaries, since stakes themselves might be moved; provision for the



time within which operations should be begun ; the evidence of ownership and retention by right, by occupation, or limited absence, during which the tools were required to be left upon the claim ; the size of the claim, so that there might be an equitable distribution of opportunities among the members of the community ; the acts which should constitute an abandonment ; means for speedy trials of disputes ; appeals from these rude tribunals to the body of the miners assembled en masse ; the assertion of the right of the people to mine without paying compensation to the general government, so frequently discussed in early days as the doctrine of "free mining" ; the right to modify, from time to time, the regulations adopted ; a variety of methods of trial, from that by a judge, arbitrators, jury, to the entire body of the miners.

These miners acted upon the further theory that whenever that which was claimed to be a wrong had been inflicted, and they had not provided a remedy or created a tribunal with jurisdiction to try it, they were invested with a reserved power to remedy this defect by either trying the controversy directly, or by the creation of a court of original or appellate jurisdiction for that purpose. They made good, in the administration of their system of laws, the boast of the common law that there is no wrong without a remedy. If the remedy were wanting, if precedents did not exist, if the wrong had not been anticipated and legislated against, if it violated rules of right and honor, they claimed and exercised the power to provide a tribunal with ample jurisdiction and full support, whose decrees the body of the miners were pledged to put into speedy and absolute execution. In theory and operation, however simple and rude, a more comprehensive and perfect system of law has seldom been announced. It could only have originated, have existed and been enforced under the peculiar circumstances surrounding the miners in these early days. The love of law and order, a respect for right, a belief that a solemn duty rested upon every miner to devote his time, although it meant large pecuniary loss, to the restitution of rights and the punish-

ment of offenses, everywhere prevailed and in singular form, as evidenced by the proceedings of the miners' meetings in many instances and districts of which the proceedings of two districts are instructive examples.

In the Weaverville mining district, Trinity County, California, on July 7, 1853, the miners of the district met en masse, for the purpose of finally settling the claims to the water of West Weaver, which, it is alleged, had been conducted to those "diggings" by two races known as Dr. Ware's and Fiddler's, but then claimed by the miners of West Weaver. The meeting selected a president and secretary. One of the miners arose and, in the language of the record, "Stated in a concise and short address the object of the meeting, giving the history of the above races, the cause of their origin, and concluded with an expose of the law on the subject." After some desultory remarks, it is announced that a certain preamble and resolution were adopted by a seven-eighths vote; among other things it recited:

"WHEREAS, Some malicious persons residing on West Weaver have, without cause or provocation, committed a wanton destruction of property in the burning of Dr. Ware's reservoir on West Weaver, and cut and otherwise injured the race known as Dr. Ware's race, which, in part, supplies water for the diggings on McKenzie's gulch and its tributaries, to the serious injury of not only Dr. Ware, but also the miners working on said gulches, and

"WHEREAS, It becomes us as Americans and good citizens to protect one another in our rights and privileges, therefore, be it

"*Resolved*, That we, the miners of Weaver, assembled en masse, do hereby repudiate and frown upon any and every such spirit of agrarianism as has so lately manifested itself in the burning of the reservoir and cutting of Dr. Ware's race, and will protect all persons in their respective rights and privileges, as guaranteed to them by the constitution of the state as well as that of the United States.

*“Resolved, That we will assist Dr. Ware in the repair of his race, and do hereby constitute a committee of the whole and pledge ourselves to see the provisions of this meeting complied with.”*

And on the 9th of August, at Johnson's old house at Sidney Flat, a meeting of miners was held :

*“The object of the meeting was to investigate the existing difficulties between Dr. Ware and a mob of miners on West Weaver, who, without any apparent cause and in violation of all laws of the country and of honor, have destroyed his property with that of other individuals, and as we are creditably informed are now holding water by force of arms that is justly the property of Ware and others.”*

The record proceeds :

*“Dr. Ware explained the object of the meeting in a few pertinent remarks. In this dilemma Dr. Ware calls upon his fellow miners to assist him in defending his rights, agreeable to the old miners' law ; they said that this was a serious affair, but that they were willing to defend the old and established miners' laws and the right.*

*“Mr. Miller then moved that a committee of five be appointed to investigate the nature of the grievances and examine the law on the subject and report to an adjourned meeting at one o'clock. Motion carried unanimously.”*

At one o'clock they met and the committee reported as follows :

*“Having thoroughly investigated the laws and customs of the miners of Weaver, we fully concur in the opinion that Dr. Ware is fully entitled to all the water in West Weaver, except four tomheads, which is allowed for the bed of the stream ; also, that the burning of his reservoir and the destruction of his dam and other property and the taking of his water from his race by force of arms, are malicious acts and should not be submitted to by those who are in favor of law and order.*

*“On motion, it was resolved that we assist Dr. Ware in turning the water into his race, and that we sustain him to the last extremity in keeping it in the race.*

*"On motion, meeting then adjourned for the purpose of carrying this resolution into effect."*

No one can doubt that right was vindicated, and the laws of right and honor maintained by this adjourned meeting, of the miners.

Forfeitures for failure to work were strictly enforced, with generous allowance for illness and poverty. This is an illustration of regulations upon that subject:

"A notice stating the date of posting and the name of the claimant thereof posted in a conspicuous part of the claim shall be considered sufficient to hold such claim for the space of three days from the date of posting thereof; after the expiration of the said time, if no work shall have been done upon the same, it shall be considered as forfeited, and renewal of such notice at said expiration shall in no case be allowed to hold possession."

"The tools upon a claim shall be considered sufficient to retain possession for the space of three days after cessation of work, provided that such cessation be not caused by sickness; in such case the claim shall not be considered as forfeited until the recovery of said claimant."

While some districts only sought to regulate matters pertaining directly to mining claims, in others the regulations extended to other matters, and among those adopted by a miners' meeting on July 7, 1861, at the cabin of I. A. Clark, in Jackson District are these:

"No post house nor tent shall be allowed to stand in this district that deals and traffics in spirituous liquors.

"Fraud shall vitiate any contract wherever it makes its appearance.

"Any person convicted of perjury shall receive 25 lashes upon the bare back, and the sheriff shall perform said duty.

"One partner of any company shall not have the power to sell any claim in the absence of the company without he shall have power of attorney or a written agency."

The exposed condition of property, the necessity for constant attention upon mining, gave remarkable opportunities for theft. But it is asserted that in no community was its perpetration so infrequent, and this is attributed to the honesty of the population; but it may have been somewhat due to the swift and terrible punishments which followed the commission of crimes of this character. In "Canion" Mining District, Clear Creek County, Colorado, as illustrative of the regulations adopted throughout the entire mining region upon this subject, there is this provision:

"If any person or persons be guilty of stealing they shall be taken before the justice of said district and be tried for their guilt, and if said person or persons be found guilty they shall be punished; if the theft exceeds one hundred dollars he or they shall be hanged by the neck until they are dead, and if the theft be less he or they shall receive not less than five lashes or more than forty-five lashes."

Amidst this exemplification of common sense and fairness, however, fallible human nature disclosed its weakness, in legislation, common in the beginning to many of the districts, which provided for the absolute exclusion of lawyers from the practice of their profession. The miners seem to have shared the prejudice and mistaken notions frequent everywhere, and which are said by historians to have been entertained by the early Spanish explorers, when they vigorously objected to lawyers accompanying them to the new world. Balboa is said to have written to the king of Spain, before starting out:

"One thing I supplicate your majesty: that you will give orders, under a great penalty, that no bachelors of law should be allowed to come here; for not only are they bad themselves, but they also make and contrive a thousand iniquities."

Illustrative of the regulations upon this subject are those in the Sugar Loaf District.

"No practicing lawyer or any other person having been admitted as such in any state or territory, shall be permitted

to appear in any cause pending in this district as attorney or agent of any person except he himself is a legal party to said suit and if any lawyer should be a legal party to any suit, the opposite party may also employ counsel in his case if he chooses so to do, but in all other cases lawyers shall not be admitted."

In Union District a more rigorous exclusion and drastic remedy was provided by this resolution :

"That no lawyer shall be permitted to practice law in any court in the district, under a penalty of not more than fifty nor less than twenty lashes, and be forever banished from the district."

These errors of judgment, however, inevitably by experience righted themselves, and led these pioneers in legislation to a recognition of that which had been forced upon their predecessors in legislation everywhere, that the lawyer is essential to a due ascertainment of human rights and a fair administration of justice. Among the men who handled the pick and rocker in these early days were some of the ablest lawyers of America, men who afterwards shed luster upon the bench of the highest state and federal courts, and at bars where they met the ablest trained intellects of the land.

This system of miners' common law continued, uninterfered with by federal legislation, until February, 1866.

In 1851 Stephen J. Field, later chief justice of California and justice of the Supreme Court of the United States, one of the master intellects of the American judiciary, familiar with every phase of mining in the earliest days, as well as of its later development, introduced into the California legislature, as a section of the civil code, this clause :

"In actions respecting mining claims, proof shall be admitted of the customs, usages or regulations established and in force at the bar of diggings embracing such claims, and such customs, usages, or regulations, when not in conflict with the Constitution and laws of this state, shall govern the decision of the action." This was the first statute to take notice of

and to recognize these usages and regulations, and it not only recognized them, but adopted them as a part of the law of California. At first it was contended, and was held for some time by the Supreme Court of California, that the state of California, as a sovereign state, succeeded to the sovereign rights which would have been possessed under the common law by the crown in England, and therefore was the owner of the royal metals in the public lands, of which it was contended the United States was trustee for the state until its admission into the Union, and therefore the regulations of the miners, authorized or adopted by a state statute, were an adequately authorized disposition of these minerals. Later this view was overruled in an opinion of Justice Field, delivering the decision of the Supreme Court of California; and while there seems to be yet some contention and uncertainty upon the subject, the effect of his decision, that the minerals belonged to the United States and not to the state, can be accepted as the settled law upon this subject.

The Supreme Court of California, with reference to the miners' usages and regulations, and the legislation just mentioned, says:

"These usages and customs were the fruit of the times and demanded by the necessities of communities who, though living under common law, could find therein no clear and well defined rules for their guidance applicable to the new conditions by which they were surrounded, but were forced to depend upon remote analogies of doubtful application and unsatisfactory results. Having received the sanction of the legislature, they have become as much a part of the law of the land as the common law itself, which was not adopted in a more solemn form."

A statute of the United States of February 27, 1865, providing for District and Circuit Courts of the United States for Nevada, and now section 910 of the Revised Statutes of the United States, made like provision, in these words:

"No possessory action between persons in any court of the United States for the recovery of any mining title, or for

damages to any such title, shall be affected by the fact that the paramount title to the land in which such mines lie is in the United States, but each case shall be adjudged by the law of possession."

In *Sparrow vs. Strong*, Chief Justice Chase, speaking for the Supreme Court of the United States, at the December term, 1865, says, with reference to mining claims originating under the regulations of the miners :

"We know, also, that the territorial legislature has recognized by statute the validity and binding force of the rules, regulations and customs of the mining districts. And we cannot shut our eyes to the public history, which informs us that under this legislation, and not only without interference by the national government, but under its implied sanction, vast mining interests have grown up, employing many millions of capital and contributing largely to the prosperity and improvement of the whole country."

The final and perfect recognition of the miners' common law came from congressional legislation, which has been pronounced awkward, crude and unsatisfactory upon many subjects, but which specifically avows the tacit policy pursued by the federal government from the prudent inaction of Governor Mason down to the enactment of this federal legislation, which is entitled "An Act granting right of way to ditch and canal companies through the public lands and for other purposes." The title, it will be observed, makes not the slightest reference to mines nor the disposition of mineral lands. But this was in effect the first general law passed by the Federal government under which title to public mineral lands within the precious metal-bearing states and territories could be acquired. Section 1 provides :

"That the mineral lands of the public domain, both surveyed and unsurveyed, are hereby declared to be free and open to exploration subject to the local customs or rules of miners in the several mining districts, so far as the same may not be in conflict with the laws of the United States."



This legislation, which followed similar declarations by state and territorial legislatures, marks the beginning of the end of the miners' law as a living force, for, by the supplemental legislation of the states and territories preceding and following up the Act of 1866 and the Act of May 10, 1872, the field was substantially occupied, so that nothing of importance was left to the expressly authorized legislation of the miners' districts, it being provided in these various legislations that they might adopt customs and provide regulations not in conflict with the state, territorial and federal legislation. This example, therefore, of direct legislation by the assembled people voting directly upon the subject is substantially ended. That it accomplished much good, that it resulted in a wise system, that it led to the preservation of what was known as free mining, still, in part, an element of the American mining code, can not be questioned. The principles underlying it were sound; the objects sought eminently praiseworthy; the means adopted effectual. No higher eulogy, it seems, can be pronounced upon any system of legislation than to say that its object was justice, and by the means adopted the object was accomplished.

It must not be assumed that the failure of the Federal government to assert its right to the mineral in its public domain and to legislate with reference thereto was due to a lack of knowledge of the value of the mineral, the necessity for law or the rights of the government. The subject was brought to the attention of the executive department by reports from those representing the government in this territory, and the attention of the legislative department was directed to it by executive communications and by the introduction of bills, and able and extended discussions in the Federal Congress.

It may be said generally of the mining codes of the world, and they have been numerous, extended and varied, the general result is a declaration of regnal rights, as they are technically called, to the mineral contained in the land, independent of and in distinction from the ownership of the land itself. In

other words, that the crown, or the government, was the owner of what we usually know as the royal or precious metals, and many of the other minerals, independent of any ownership of the land, and that they could not become the subject of absolute ownership by individuals. It is announced by a distinguished writer that all continental publicists who have written on the subject lay down the fundamental rule that mines, from their very nature, are not a dependence of the ownership of the soil; that they ought not to become private property in the same sense as the soil is private property; but should be held and worked with the understanding that they are by nature public property, and are to be used and regulated in such way as to conduce most to the general interests of society. He enumerates the various reasons assigned in support of this doctrine.

Many of these reasons are artificial, others political; others due to the peculiar system of tenures of the government in which it was announced, or to the method of acquisition of dominion over the territory in which the mines were found. One reason is said to arise from the use which is made of metals in coining money, manufacturing arms, etc., and that public utility and public necessity require that the production of metals should not be subject to the will of the surface owner, who, at his own option, may cut off the supply. De Foon declares that this system of regulation, right and control, with opportunities for leasing and development upon conditions affixed by the sovereign, precludes private ownership, and has been admitted by almost every people, giving citations from the mining codes and the ancient laws of the Athenians and Romans, of Bavaria, Bohemia, Hungary, Austria, Saxony, Sweden, Norway, Hanover, Spain, France, Belgium, Holland, Russia, Prussia and England in support thereof, and that this regulation and right is fully recognized in all the countries named, except England, where it is limited to gold and silver, other metals being there regarded as belonging to the owner of the surface of the land. Private ownership, it is contended,

would prevent full development, and Delebecque cites England as an example to demonstrate that the failure to develop its mineral wealth was due to the peculiarities of its laws. In England, as Coke, in his *Second Institutes*, page 577, says, the mines which might be called royal were exclusively the property of the crown, and were mines of silver and gold. And so strong was this prerogative title that it was held by English courts, although the king should grant lands in which mines were situated, together with all mines in them, yet royal mines—that is to say, mines containing gold and silver—should not pass by such description and grant. In *Plowden's Reports*, page 336, there is given a unique statement of the basis upon which it is asserted the prerogative of the crown, with reference to royal mines, rests, in this language:

“Onslow alleged three reasons why the king shall have mines and ores of gold or silver within the realm, in whatever land they are found. The first was, in respect of the excellency of the thing, of all things which the soil within this realm produces or yields, gold and silver is the most excellent; and of all persons in the realm the king is, in the eye of the law, most excellent. And the common law, which is founded upon reason, appropriates everything to the persons whom it best suits, as common and trivial things to the common people, things of more worth to persons in a higher and superior class, and things most excellent to those persons who excel all others; and because gold and silver are the most excellent things which the soil contains, the law has appointed them (as in reason it ought) to the person who is most excellent, and that is the king.”

Senators Fremont, Benton and others directed the attention of the United States Congress and the general government to what was by some called the chaotic condition of title to mining lands in California and the west, and discussed the question of appropriate legislation, and it was urged by some that a general policy should be adopted which would secure to the government, either by leasing or by sale, or by some permis-

sion upon the payment of a license therefor, the right of the citizens to explore and mine, and, as some suggested, ultimately to obtain complete title to the mining lands. This suggestion was combatted by those who advocated free mining, upon the ground that Congress should only adopt regulations providing for the exploration, determination of the extent of rights and permitting mining to proceed without requiring the purchase of the lands or the payment of tribute in any form to the general government. Public men at one time believed that the mines of the west containing the precious metals should be resorted to as similar mines had been in ancient times by Rome, Athens and Spain as sources of revenue, and that out of the proceeds thereof the public debt might be discharged.

The recognition of the doctrine of free mining, was ably advocated by Senator Benton, supported by Senator Seward and many Western men.

It was said, in support of the proposition for the adoption by the government of free mining as a system that wonderful results would be received by the country generally ; that under its operations " for near a quarter of a century a race of men, constituting a majority by far of all the miners of the West, patient of toil, hopeful of success, deprived of the associations of home and family, had devoted themselves, with untiring energy, to sinking deep shafts, running tunnels thousands of feet in solid granite, traversing deserts, climbing mountains and enduring every conceivable hardship and privation, exploring for mines, all with the idea that no change would be made in this system that would deprive them of their hard-earned treasure ; that some of them had found valuable mines, and a sure prospect of wealth and comfort when the appliances of capital and machinery shall be brought to their aid, while others had received no compensation but anticipation, no reward but hope, and that while these people had done little for themselves, they had done valuable service for the government, had enhanced the property of the nation near one hundred per cent. ;

had converted that vast unknown region, extending from British Columbia on the north to Mexico on the south, and from the eastern slope of the Rocky mountains to the western decline of the Sierra Nevadas, into the great gold and silver fields of the United States, surpassing in richness and extent the mines of any other nation on the globe."

The speaker further says :

"I assert, and no one familiar with the subject will question the fact, that the sand plains, alkaline deserts and dreary mountains of rock and sagebrush of the great interior, would have been as worthless to-day as when they were marked by geographers as the great American desert, but for this system of free mining fostered by our neglect, and matured and perfected by our generous inaction."

To what was thus vigorously asserted in 1865, may be added the history of the wonderful mining development of the West down to the present time, which has resulted in adding millions of dollars of coin value and precious metals in the West to the wealth of the nation and the world, to the development of other industries, the extension of great railroad systems, the establishment of a great merchant marine, to the building of cities, the founding of agricultural communities, and the establishment of homes for an adventurous and deserving American population.

The early miners, in their mountain gulches, in their humble cabins, at their primitive assemblages, unfamiliar with the history of mining laws and regulations in the old world, and even with the Spanish regulations which had prevailed in the very territory which they occupied, seized upon the aptest, wisest and most beneficial principles which could have been adopted, and by vigorous, strenuous, independent, but respectful assertion of their rights, secured their recognition at the hands of the general government, to the incalculable enrichment and advantage of the entire nation.

Beginning with 1866, and with an amendment in 1870, which latter contained the gist of federal legislation with

regard to placers and a provision for their sale, we have, as the final form of federal legislation, a substantially complete code of mining law embraced in the act of May 10, 1872, with only slight amendments, and with a few supplements by local legislation, contains the American mining law of to-day. It recognized the essential principles found in the miners' regulations.

This code is not perfect, and the efforts of legislators to prescribe in details has led to confusion and costly litigation. The present code has failed to provide for many difficult questions, some of which would have been avoided had the simple regulations of the miners been adopted, and which have arisen to vex miners and perplex courts, affording for the latter a large field of judicial interpretation, and sometimes for that which has been called judicial legislation. The principles and regulations of the present code I attempt here to summarize, illustrating the supplemental regulations permitted by states and territories by those which have been adopted in the state of Colorado, and which are fairly representative.

In order to secure the fullest development of the public mineral domain, it was determined that it should be thrown open to the citizens of the United States, and provided, in addition to the declaration contained in the act of 1866, just quoted, by the act of May 10, 1872, that

"All valuable mineral deposits in lands belonging to the United States, both surveyed and unsurveyed, are hereby declared to be free and open to exploration and purchase."

Further that the discoverer, whose industry, patience, enterprise, audacity and endurance of hardships had discovered the mineral, should have, as against the government, a title permanent, assignable and inheritable, and should be entitled to substantial protection and favor. The law of May 10, 1872, declares that " \* \* \* No location of a mining claim shall be made until the discovery of the vein or lode within the limits of the claim located." In every contest and litigation, before courts and juries and in the interior department, there

has been a generous interpretation of law and facts in behalf of the first comer who has honestly made a discovery upon the public domain, for the purpose of protecting him against the assaults upon his right by later comers, who have sought, by technical means, to defeat and destroy his property; and from the time of his discovery his right is esteemed as perfect, though subject to more difficulty in its establishment in court as after the government has conferred upon him the fee-simple by patent.

To prevent uncertainty as to the extent of the discoverer's rights to the grounds which were taken or occupied, and in order that the unappropriated domain should be open and known to be open to other explorers, it is required that the claim should be marked and defined upon the ground, by proper markings and monuments, so as to be easily found and recognized, and that documents announcing the extent of the claim, the owners thereof, and the basis of title, should be filed with certain officers.

By section 2324 of the United States Revised Statutes, it is provided that

"The location must be distinctly marked on the ground, so that its boundaries can be readily traced."

In Colorado it is provided, in pursuance of the permission given to the state to legislate upon this subject by the federal government, that "the discoverer of a lode shall, within three months from the date of discovery, record his claim in the office of the recorder of the county in which such lode is situated, by a location certificate, which shall contain the name of the lode, the name of the locator, the date of the location, the number of feet in length claimed on each side of the center of the discovery shaft, the general course of the lode as near as may be;" and that before filing such location certificate, the discoverer shall locate his claim by sinking a discovery shaft upon the lode to the depth of at least ten feet from the lowest part of the rim of such shaft at the surface, or deeper if necessary, to show a well-defined crevice; by posting, at the point

of discovery on the surface, a plain sign or notice, containing the name of the lode, the name of the locator, and the date of discovery ; by marking the surface boundaries of the claim ; and it is provided that such surface boundaries shall be marked by six substantial posts, one at each corner and one at the centre of each side line of said claim, and that where it is dangerous to life and limb, by virtue of the precipitous character of the ground, to set the stakes where they would properly fall, they may be set near, and a reference made to the true position which the corner should occupy.

To prevent the acquisition or taking up of large bodies of mineral lands, without developing them, and thus withdrawing them at once from the control of the government and from the use of the public and depriving the community of the advantages which their development would secure, requirements for work and development are made.

The act of May 10, 1872, requires that "On each claim located after the tenth day of May, 1872, and until a patent has been issued therefor, not less than one hundred dollars' worth of labor shall be performed or improvements made during each year."

Whilst permitting the extraction of all the ore from a mining claim without any payment whatever to the government, and the retention of the title indefinitely, only subject to the requirement of annual expenditures, the government made provision for the acquisition of complete title by the locator or claimant ; in short, did not require that the lands should be purchased, but made provision that they might be. Section 2326 contains the provisions upon this subject, and provides that "A patent for any land claimed and located for valuable deposits may be obtained." And in order that there might be certainty as to the requirements upon which purchase should be made, and with reference to the procedure which should be adopted, and an opportunity given to all who contested the right of the claimant to the title to oppose the same and assert their own right, and that there might be a speedy determin-



ation thereof, and provision compelling this assertion, we have a definite statutory requirement, authorizing proceedings in the general land office by an applicant to obtain a patent, wherein he is compelled to give notice of this application, to establish his compliance with the law and his right to the patent, and permission and opportunity, as a result of published notice to all contesting his claim, to antagonize it by adverse claim filed in the land office, to be supplemented and followed up by proper litigation in courts having jurisdiction of the subject matter so that, as far as possible, there shall be fully settled and determined all controversies with reference to the title before the issuance of a patent by the United States.

The miners, in their regulations with reference to lode claims, had allotted to the various locators so many feet upon the lode, without reference to its width, with the right to follow it as far as it extended into the earth, with provision for the use of surface ground upon either side for its convenient operation. When the act of May 10, 1872, was adopted, it provided for claims of definite dimensions within fixed limits, and gave the right to follow the veins having their apexes or tops therein upon their descent into the earth within the end lines of the claim extended, these end lines being required to be parallel. This was a modification, and at the same time recognition and preservation of the miners' common law view of this right. This statute has been as prolific of controversy, litigation and expense as we are told was the famous Statute of Frauds—alleged to have cost for every line in it a subsidy.

The law upon this subject is known as the law of the apex. While there have been numerous interpretations by the courts of its provisions and meaning, in an effort to apply it to the occurrences of nature, it yet remains the subject of debate and must be the subject of future construction and adjudication. This cannot be discussed nor the results of interpretation given or even slightly touched upon here. The statute, which is the Iliad of many mining woes, and which has received alternately the blessings and anathemas of litigants, lawyers,

courts and mining engineers, is contained in the following language:

"The locators of all mining locations on any mineral vein, lode or ledge, situated on the public domain, shall have the exclusive right of possession and enjoyment of \* \* \* all veins, lodes and ledges throughout their entire depth, the top or apex of which lies inside of such surface lines extended downward vertically, although such veins, lodes or ledges may so far depart from a perpendicular in their course downward as to extend outside the vertical side lines of such surface locations."

The miners were confronted with difficulty in determining the extent of mining claims and the length of lodes which might be taken up under one location. In some districts, where the bars were of great wealth, a few square feet only were allotted. In others the limit was much more extensive. With reference to lodes, in some districts a few feet, and in others, many hundreds of feet, were permitted to be located by one person or association. Congress undertook to legislate upon this subject, leaving some latitude for local legislation and miner's regulations. We have the provision thereof contained in section 2320 of the Revised Statutes of the United States, which provides that "Mining claims \* \* \* heretofore located, shall be governed as to length along the vein or lode by the customs, regulations and laws in force at the date of their location. A mining claim located after the 10th day of May, 1872, whether located by one or more persons, may equal, but shall not exceed, one thousand five hundred feet in length along the vein or lode. \* \* \* No claim shall extend more than three hundred feet on each side of the middle of the vein at the surface, nor shall any claim be limited by any mining regulation to less than twenty-five feet on each side of the middle of the vein at the surface, except where adverse rights existing on the 10th day of May, 1872, render such limitation necessary. The end lines of each claim shall be parallel to each other."

The result has been that the miners have the right to make their claims as narrow and as short as they choose, but cannot make them longer than fifteen hundred feet nor wider than six hundred feet. In Colorado, by state legislation, and the action in counties in pursuance thereof, no mining claim may exceed fifteen hundred feet in length nor from fifty to three hundred feet in width; whilst in other states and territories, by local statutes, they are permitted to be fifteen hundred feet in length and six hundred feet in width. The form is not defined. It was the evident purpose that they should be rectangular; but with the limitation that the end lines shall be parallel, many irregular forms have been adopted by the miners and sustained by the courts; the irregularity in form being due to the conformation of the country or to the character and extent of the ground open to location, or to the result of conflict with other claims.

After five hundred dollars worth of expenditure, the right to make application for a patent or purchase the land arises. When the patent is issued it constitutes a deed by the Government of the United States to the claim, and conveys the land, with all lodes having their tops or apexes within it subject to the apex rights of other locations, because the law proceeds upon the theory that no valid location can be made without the finding of the apex of a vein within its boundaries, and thereupon the title of the claim becomes absolute. A mining claim is real estate, vendible, conveyable, inheritable, taxable and leviable as any other real estate, and is subject to the usual regulations concerning its conveyance, and this is true not only after patent, but during the progress of its existence from the time of its discovery.

Many controversies arise as to whether or not a discovery has been made; whether or not the necessary work has been done, stakes set; whether the location certificate is in proper form, properly recorded; whether or not the vein pursues the proper course within the boundaries of the claim, or has its apex therein; whether or not the vein is continuous in its

descent into the earth—and upon each and every of these questions innumerable litigations have arisen, which have taxed the wisdom of the courts, the ingenuity of the lawyers, and the learning and skill of experts and miners in their presentations. The principle followed by the courts, however, in their construction of the law, has been to give it a practicable interpretation in view of the fact that the prospector and locator of claims is to be governed by it, and that he can not be attended, in his explorations, by a lawyer to construe the law, a surveyor to determine the boundaries and position of his claim, and assayers and geologists to give him the result of their operations and the character of the formation in which he is working, all of which would be necessary if some of the contentions urged against the validity of locations should be by the courts sustained. A liberal spirit has been adopted generally in these decisions, sustaining good faith and honest effort to comply with the law, and an avoidance of technical defects to meritorious claims, while at the same time requiring a fair, honest and substantial compliance with the terms upon which the general government extends its bounty to the prospector and locator.

Many important questions, far reaching in their character, with reference to lode and placer claims, have been raised and adjudicated, while some are still pending and others await litigation. A knowledge of them is important in obtaining a complete view of mining law; but not to understand the underlying general ideas determining and which have determined the growth of the law as a system. These only and but imperfectly have been sketched and outlined here. The system is important, involving in its history peculiar institutions, and possessing now a rich literature, the work of eminent lawyers and of able judicial exposition, and is worthy of a better exhibition than has been made of it here.

## THE LAWYER, HAMILTON.

BY

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Next to the fact that George Washington was what he was, this country, and *therefore* the world, perhaps, is most indebted to the fact that Alexander Hamilton was a lawyer.

I shall not attempt to make good this statement by the adduction of particular proofs, for my purpose is simply to consider somewhat the legal attainments of Hamilton and to discover, if may be, the qualities which admittedly place him at the head of the American bar. But I believe that enough will incidentally appear to suggest the possibility that my opening statement is not altogether dogma, nor the vagary of what religionists would call a teleologist.

To begin with, it is quite impossible to wholly separate Hamilton, the lawyer, from Hamilton, the soldier, Hamilton, the statesman, Hamilton, the financier; least of all, from Hamilton, the controversialist.

So apparent is the difficulty that no attempt has ever been made, that I can discover, to treat of Hamilton distinctively as a lawyer, save by a writer in the *Green Bag*, whose effort I am presently to consider. Yet am I convinced that it was to the peculiar brain convolution known as the "legal mind," that Hamilton owed his various pre-eminences. For the "legal mind" is something more than a storehouse for so-called legal lore—something more than an index to cases—something more than a pigeon-hole for court files. Legal lore, on analysis, will be found to be all lore. A man can memorize statutes, formulæ, precedents and yet know no law. For law is not simply the latest guess of a Supreme Court; a good lawyer may sometimes prevail upon that tribunal to guess

again. Law is that rule of action which must prevail if justice itself is to prevail, and he is the greatest lawyer who, in the light of the greatest knowledge of whatever is knowable, most clearly perceives the just principle and most persuasively advocates it. I would almost affirm that the legal mind is the scientific mind with an ethical kink in it. Can anyone doubt that Lyell, Darwin, Spencer and Huxley were great lawyers in the domain of natural science? Just so was Hamilton a great scientist in the domain of civil law. Thus considered, Hamilton, the lawyer, is no other than Hamilton, the statesman. But in common with my brothers of the bar, I have felt a curiosity to know something about Hamilton the practitioner, and presumed, of course, that I had only to apply to a public library to find this phase of his career adequately treated. As a matter of fact, I found only the magazine article to which I have referred, and which I am bound to say was disappointing. It is by A. Oakey Hall and covers less than seven pages of the *Green Bag* for December, 1895. The author laments that while innumerable sketches and biographies have made Hamilton's statesmanship familiar, there can be found in these no portrayal of Hamilton as a lawyer, and adds: "It is the intention of this article to attempt to supply that deficiency." That the supply was not equal to the demand may be inferred from a summary of Mr. Hall's article.

He begins at the beginning, that is to say, with the birth of Hamilton, whose youth he describes and whose ancestry for generations he affects to trace. This last, to the knowing, is rather unfortunate, inasmuch as the proofs are cumulative that Hamilton, Senior, was not a "wise father" in the Shakespearian sense. This innuendo hurts me too much not to pause long enough to make plain my own attitude towards the fact which it insinuates. Everything is anonymous in the sight of heaven. Only men give names. To me it is more than a coincidence—it is a thing of strange significance—that this western world, which for æons lay entranced and nameless in the clasp of

Ocean ; which in the fullness of time was to give birth to a new race and a government dedicated to man as he is, regardless of antecedents, should owe so much to one without a country, without antecedents, and nameless as itself. And apropos of this idea, I was recently attracted by one of Darwin's letters to DeCandolle, written in 1868. In it this greatest and most modest of scientists says :

“ Your observation on so many remarkable men in noble families having been illegitimate is extremely curious ; and should I ever meet with any one capable of writing an essay on this subject, I will mention your remarks as a good suggestion. Dr. Hooker has several times remarked to me that morals and politics would be very interesting if discussed like any branch of natural history, and this is nearly to the same effect with your remarks.”

But Mr. Hall is not content with telling us all about the Hamilton genealogy ; he goes further and gives a biography of one Cruger, Hamilton's first employer, together with more or less information about Cruger's descendants. He goes into Hamilton's military career, even to a circumstantial account of Hamilton's quarrel with Washington, concerning which he misquotes the facts. He makes up for this, however, by quoting correctly from Tom Moore some poetry about “ dissensions between hearts that love.” He describes Hamilton's marriage with Elizabeth Schuyler, in 1780, and gives *in extenso* a pen picture of Hamilton by Mrs. Van Rensselaer, which is as glowing as one might expect from a feminine relation. He gives us a summary of Hamilton's career in war, politics and office, and also such important peculiarities in his chirography as an habitual omission to dot his i's or cross his t's ; mentions his hostility to slavery ; recounts with great particularity the encounter with Burr ; describes his house, grounds, the thirteen poplar trees planted by Hamilton, one for each of the original states ; takes up, by way of diversion, the legal career of one of Hamilton's sons, and ends with some more poetry. Of Alexander Hamilton as a lawyer, there is scarcely men-

tion, further than the statement that he was a great lawyer and that Chancellor Kent had said so. There is, to be sure, reference to two or three particular suits in which Hamilton had been employed, and a specimen of Hamilton's legal humor is also given. It is a recipe for obtaining good title in ejectment, which he had scribbled on the margin of a brief, in the case of *Livingston vs. Brown*, in which Chancellor Livingston claimed title to a large tract of land in the possession of the defendant, and appeared in the case in his own behalf.

An interesting account of this trial may be found in Kent's "Memories of Hamilton." The recipe referred to was evidently intended to describe Livingston's title to the property involved, and was as follows:

"Two or three void patents, several old *ex parte* surveys, one or two cases of usurpation acquiesced in for a time, but afterwards proved such; mix well with half a dozen scriptural allusions, some ghosts, fairies, elves, hobgoblins and a *quantum suf.* of eloquence."

I was disposed at first to regard this as rather elephantine humor, but when afterwards I discovered that the Chancellor's title was claimed through a long line of ancestors, whose shades he invoked, and whose memories he defended, it struck me as a rather clever memorandum, which could be elaborated in oral argument with considerable effect.

Mr. Hall's monograph does not compare in interest, from a lawyer's standpoint, with the letter written by Chancellor Kent to Hamilton's widow, containing his recollections of her distinguished husband; and from neither source do I find any attempt to follow Hamilton's legal career or to analyze the qualities which gave him such an ascendancy in the profession. In an effort to trace his legal development from other sources—notably from his own writings and correspondence—I find myself in possession of a mass of material, which, time permitting, could be woven, I think, into a history of Hamilton, the lawyer, but which, for an evening's essay, is both cumbersome and ludicrously embarrassing.



I assume that Hamilton was one of the leaders of the American bar. Save as a mere eulogy, it would subserve no purpose to multiply testimonials to this effect. The question which interests lawyers is, wherein was this pre-eminence, to what faculties did he owe it, and how were these faculties developed? I have thought that to catalogue numerically the requirements of the ideal lawyer would greatly simplify my task, for the very enumeration would serve as an index to the propositions to be considered.

What, then, must be the equipment of the ideal lawyer? 1st, I would place the texture and quality of mind; 2d, an encyclopædic knowledge, including, of course, an actual knowledge of the law based on adequate study; 3d, temperament; 4th, endowment, physical and mental, with the gift of fluency and lucidity of speech; 5th, habit; 6th, character; 7th, personality. For if a man have a legal mind, a wide and accurate knowledge—legal and general—a legal temperament, a robust constitution, a ready and felicitous power of expression, a habit of persistent, methodical, painstaking work, an upright, bold and commanding character, combined in a winsome personality, and should concenter these manifold gifts, acquirements, virtues, talents and energies in the prosecution of the profession of the law, his success and pre-eminence would be removed from the sphere of conjecture and become as inevitable as a demonstration in Euclid. And I affirm deliberately and, so far as I am able, judicially, that I know of no man who ever lived in whom these seven elements which I have enumerated—a prism of personal colors, so to speak—were so blended in the white light of a penetrating consciousness.

The legal mind I have already attempted to define. But it must be distinguished even from the judicial mind. A judge may have a legal mind, to be sure, and if he has, he is something more than a judge—he is a lawyer. The lawyer must explore, discover, invent, exploit. The principles battled for at the bar in the passion of debate, are merely re-echoed from the bench in unimpassioned utterance. I would not be thought

to disparage the judicial mind—heaven forbid ! It is the mind to which all appeals are made ; it is the ultimate, the determining authority—the conscience of the executive. In short, I would call it the common mind uncommonly enlightened ; or I would even call it sanity enthroned. Queen Victoria was judicial ; her acts show it, and her diary, so far as published, most of all. Washington was preeminently judicial, and it goes without saying that to his judgments and judicial wisdom in the plastic period of its existence, our government is more indebted than to all other factors combined. He symbolized and energized the United States of America. The particular lawyers to whom he looked for instruction and advice during his first administration were remarkable men, Randolph, Jefferson and Hamilton. These lawyers frequently differed on important questions as lawyers will ; whereupon Washington would call on them for briefs and arguments. If in any of these forensic combats—for they were forensic—Hamilton ever failed to carry his point, I do not recall it. The reason for this is that, of the three, Hamilton was by all odds the greatest lawyer ; but why and wherein he so far excelled must appear, if at all, from a consideration of the several aspects of him which I have catalogued. I may add that it is my purpose in this connection to quote largely Hamilton's own words in proof of my postulates, and submit the case to you without much argument ; for the limits of this essay do not permit me to play the lawyer with Alexander Hamilton for a client.

First, then, as to the quality of Hamilton's mind. To characterize it in three words I would say that it was acute and logical, and altogether objective. Hamilton, in truth, was an infant prodigy, as much so as Mozart, Chatterton or Keats ; more so, indeed, for it is easier to comprehend the abnormal development of a single subjective faculty for music, poetry, or the like, than the abnormal development of every faculty which gives to a child the maturity of a man.

Please to note carefully the language of the several letters from which I am about to quote. I offer these letters in proof, primarily, of Hamilton's precocity, but I also wish you to infer from them whatever you please as to the mental and moral make-up of the writer. The first is dated from St. Croix, where he was in full charge of the important shipping and commercial interests of Nicholas Cruger, his employer. Under date of November 11, 1769, he writes to Edward Stevens, son of his patron (and, I may add, his putative father), as follows:

"This serves to acknowledge the receipt of yours per Captain Lowndes, which was delivered me yesterday. The truth of Captains Lightbown and Lowndes' information is now verified by the presence of your father and sister, for whose safe arrival I pray, and that they may convey that satisfaction to your soul that must naturally flow from the sight of absent friends in health. As to what you say respecting your soon having the happiness of seeing us all, I wish for an accomplishment of your hopes, provided they are concomitant with your welfare, otherwise not; though I doubt whether I shall be present or not, for, to confess my weakness, Ned, my ambition is prevalent, so that I condemn the grovelling condition of a clerk or the like, to which my fortune condemns me, and would willingly risk my life, though not my character, to exalt my station. I am confident, Ned, that my youth excludes me from any hopes of immediate preferment, nor do I desire it; but I mean to prepare the way for futurity. I'm no philosopher, you see, and may justly be said to build castles in the air; my folly makes me ashamed, and beg you'll conceal it; yet, Neddy, we have seen such schemes successful when the projector is constant."

At this time, 1769, Alexander Hamilton was, you perceive, a man—aged twelve. Poor little chap!

His willingness to assume responsibility and his ability to meet it, which characterised him through life and in whatever sphere of action, was manifested at an early age, as appears

from two of his letters in 1771 wherein, as clerk for Cruger, he gave direction to the supercargo and captain of a vessel. At this time he was fourteen years of age, and does not hesitate to lay down positive instructions to full-grown men with a placid authority which his own responsibilities justified, and without the slightest suggestion of bumptiousness. The letter to the supercargo is as follows :

“ Reports here represent matters in a very disagreeable light, with regard to the Guarda Costas, which are said to swarm upon the coast ; but as you will be the best judge of what danger there might be, all is submitted to your prudent direction.

“ Captain Newton must arm with you, as he could not so conveniently do it here. Give me leave to hint to you that you cannot be too particular in your instructions to him. I think he seems to want experience in such voyages.”

Of even date he writes directly to the aforesaid Captain Newton as follows :

“ Herewith I give you all your dispatches, and desire you will proceed immediately to Curraçao. You are to deliver your cargo there to Tileman Cruger, Esq., agreeably to your bill of lading, whose directions you must follow in every respect concerning the disposal of your vessel after your arrival.

“ You know it is intended that you shall go from thence to the main for a load of mules, and I must beg if you do, you'll be very choice in the quality of your mules, and bring as many as your vessel can conveniently contain—by all means take in a large supply of provender. Remember, you are to make three trips this season, and unless you are very diligent you will be too late, as our crops will be early in. Take care to avoid the Guarda Costas. I place an entire reliance upon the prudence of your conduct.”

In 1774, at the age of seventeen, Hamilton published a pamphlet under the following title :

"A Full Vindication of the Measures of Congress from the calumnies of their enemies, in answer to a letter under the signature of a Westchester Farmer; whereby his sophistry is exposed, his cavils confuted, his artifices detected, and his wit ridiculed, in a General Address to the inhabitants of America, and a Particular Address to the Farmers of the Province of New York."

And in February, 1775, at the age of eighteen, a second article in reply to a further letter from the same *pseudo-farmer*.

During the same year he also published his remarks on the Quebec bill.

I will have occasion again to refer to these early papers when a few extracts therefrom will display the maturity of thought and somewhat Addisonian style of composition.

For the present, it is enough to say that the authorship of the first two papers, which were published anonymously, was by some attributed to the most learned professor of King's—afterwards Columbia—College, and by others to the more brilliant leaders of the opposition.

If Hamilton was a man at twelve, he was an old man at eighteen. As for his boyhood, there is no evidence that he ever had any.

So much for the quality and native strength of Hamilton's mind.

I come next to a consideration of Hamilton's study and knowledge of the law. Of his prodigious acquirement and erudition in other branches of learning, the world is generally familiar, and it is a cheap but not unusual trick of envy to assert that jurisprudence is so recondite a science, that law herself is so jealous a mistress, that those who enter her portals must leave behind all hope of knowing anything else. Witness for example the immortal Coke!

But times have changed since the days of Coke, and so have people. Josh Billings says that people change as much as anybody. Jurisprudence from the Coke standpoint is not a science but a system of dialectics. It may be that law will

only deserve to rank as a science when, as suggested by Darwin, it shall come to be discussed, in company with morals and politics, like any branch of natural history. The technique of the law will always require study and attention, but the day is past when, to be accounted a lawyer, it is necessary to squander one's life among the cobwebs of archaic verbalisms, or the red tape of technicalities. Do you think that Choate or Webster or even Erskine had so nice a knowledge of shifting and springing uses and whatnot, that he could put up a job on his son-in-law such as old Coke put up on the unsuspecting Villars?

But law as a branch of science has fundamental principles which must be learned; and the technique or art of law must also be acquired. To do this means time and work. When, therefore, Hamilton's biographers unite in saying that with only four months of arduous study of the law, Hamilton passed a brilliant examination for admission to the bar, what are we to think? It may be conceded that there are minds of such unusual grasp and clearness that the most abstruse principles, in all their bearings and relationships, are better comprehended by them in a glance than by the average mind through hours of pondering. And it may be likewise conceded that there are photographic minds so sensitive and retentive that an impression once made is made forever, but the fact remains that to produce an impression even on such a mind, requires a "time exposure," and out of justice to the profession—to say nothing of its members—I resent the statement that a man, however endowed, can become a brilliant lawyer with only four months study. Fortunately for our self-complacency, this statement of Hamilton's biographers is a mistake easily demonstrated.

In his answer to the "Westchester Farmer" heretofore mentioned, Hamilton not only argues like a lawyer, but he displays the knowledge and habits of a lawyer, and quotes repeatedly from such lights as Coke, Blackstone, Grotius, Puffendorf, Hobbes, Locke, Bacon and Montesquieu. He analyzes with

consummate skill, and from a legal standpoint, the charters of nearly all the American colonies, as well as the acts of parliament passed from time to time in relation thereto. His knowledge of the authorities which he cites does not appear to be superficial or borrowed. His language shows a comprehensive and masterful grasp of the legal principles involved. In short, these papers could never have been written by one ignorant of the law.

It was my intention to quote from these early writings of Hamilton in proof of the fact that at the age of seventeen he had not only studied law, but had studied it diligently. But I forego for the sake of brevity.

Shortly after the publication of these papers, Hamilton, as you know, was elected captain of an artillery company, and among his duties was that of keeping the company's accounts. These accounts were kept in a book specially prepared for the purpose, although it would seem to have served Hamilton as an *index rerum*. Scattered all through the book are miscellaneous memoranda and excerpts from works which he was then reading. Among these may be mentioned :

Robinson's Charles V.

Present State of Europe.

Grecian History.

Bacon's Essays.

Philosophical Transactions.

Hobbes' Dialogues.

Plutarch's Morals.

Cicero's Morals.

Demosthenes' Orations.

Cudworth's Intellectual System.

Entick's History of the Late War.

European Settlements in America.

Ralt's Dictionary of Trade and Commerce.

Winn's History of America.

Montaigne's Essays.

View of the Universe.

Lex Mercatoria.

Review of the Characters of the Principal Nations of Europe.

Review of Europe.

History of Prussia.

History of France.

Lassel's Voyage through Italy.

In a letter to Philip Schuyler, dated from camp in 1781, Hamilton, with commendable anxiety to vindicate himself in the eyes of his new-made father-in-law, relates fully the circumstances of his misunderstanding with Washington which led to a separation. In this letter he speaks of "resuming" his study of the law. This necessarily implies that prior to the date of the letter he *had* studied law, and that his studies had been interrupted, and that he intended shortly to return to them. In this letter he also expressed the hope that he might obtain an independent command, so that he would have more leisure for the study of the law.

The year previous, at the age of 23, Hamilton had written to James Duane, a member of Congress from New York, a voluminous epistle in which, to be sure, he makes no specific mention of the law; but the letter itself could only have been written by a lawyer. To me, this letter exhibits such a depth and reach of intellect that a mere summary of its contents would fail to do it justice. Hamilton, in closing, apologizes for the length of the letter, assuring his correspondent that it had been hastily written and that for want of time he had been unable to revise it.

This letter is interesting for more reasons than one. Its style and composition show that he had shaken off the trammels of the classicists, and that the stilted formalism of Addison, which earlier in life he had unconsciously imitated, had evolved into a vigorous vertebrate style peculiarly his own.

The letter is also valuable as proving that even at the age of twenty-three, and in the midst of the war, Hamilton had felt the necessity for a rational Constitution, and had antici-



pated many of the provisions of the instrument finally adopted.

After pointing out that the fundamental defect in the existing government was the want of power in Congress, and deprecating the fact that the Congress had not lived up even to the powers conferred upon them, he says:

"It may be pleaded, that Congress had never any definite powers granted them, and, of course, could exercise none, could do nothing more than recommend. The manner in which Congress was appointed, would warrant, the public good required, that they should have considered themselves as vested with full powers *to preserve the Republic from harm*. They have done many of the highest acts of sovereignty, which were always cheerfully submitted to: the declaration of independence; the declaration of war; the levying of an army; creating a navy; emitting money; making alliances with foreign powers; appointing a dictator, etc., etc. All these implications of a complete sovereignty were never disputed and ought to have been a standard for the whole conduct of administration. *Undefined powers are discretionary powers, limited only by the object for which they were given—in the present case the independence and freedom of America.*"

Here, you observe, was the enunciation by a young lawyer of twenty-three of that doctrine of "implied power" subsequently elaborated by John Marshall, and which furnished the key-note to his distinctive greatness and immortal glory.

In concluding this remarkable letter the young Solon says:

"The manner in which a thing is done, has more influence than is commonly imagined. Men are governed by opinion: this opinion is as much influenced by appearances as by realities. If a Government appears to be confident of its own powers, it is the surest way to inspire the same confidence in others. If it is diffident, it may be certain there will be a still greater diffidence in others; and that its authority will not only be distrusted, controverted, but contemned."

"I wish, too, Congress would always consider, that a kindness consists as much in the manner as in the thing. The best things done hesitatingly, and with an ill grace, lose their effect, and produce disgust rather than satisfaction or gratitude. In what Congress have at any time done for the army, they have commonly been too late. They have seemed to yield to importunity rather than to sentiments of justice or to a regard for the accommodation of their troops. An attention to this idea is of more importance than it may be thought. I, who have seen all the workings and progress of the present discontent, am convinced that a want of this has not been among the most inconsiderable causes."

Hamilton was admitted to practice in 1782, and in that year, under date of November 3d, he writes to La Fayette as follows:

"I have been employed for the last ten months in rocking the cradle and studying the art of fleecing my neighbors. I am now a grave counsellor at law, and shall soon be a grave member of Congress. \* \* \*

"I am going to throw away a few months more in public life and then retire, a simple citizen and good pater-familias \* \* \*. You see the disposition I am in. You are condemned to run the race of ambition all your life. I am already tired of the career and dare to leave it."

Thus I have shown, I think, that Hamilton had read law, and to good purpose, as early as 1774, and that during the eight years intervening between that date and his admission to the bar he had continued his reading as opportunity offered. I therefore venture to suggest to his future biographers that they avoid the absurd and incredible error of allotting four months only to the acquirement of a legal education, which, within two years from the time he swung his shingle to the breeze, placed him in the forefront of American lawyers.

Hamilton had a bilious temperament—a nervous temperament, which implies either energy or restlessness. In him it meant both, for he had a restless energy which, according to

friends and foes alike, was the manifestation of an exuberant ambition. But there are ambitions and ambitions. The ambition of Aaron Burr was as towering as that of Alexander Hamilton, the difference being that the one would achieve at any cost and regardless of the general good, while the other would sacrifice to his ambition neither his exquisite sense of personal honor nor the honor of his country. Even Washington admitted that Hamilton was ambitious, but see how magnificently he qualified the statement. In his letter to President Adams, urging Hamilton's appointment as Inspector-General of our armies, Washington wrote :

"By some he is considered as an ambitious man, and, therefore, a dangerous one; that he is ambitious I shall readily grant, but it is of that laudable kind which prompts a man to excel in whatever he takes in hand. He is enterprising—quick in his perceptions—and his judgment intuitively great."

Nor did Hamilton ever deny that he was ambitious; he proclaimed it, as I have shown, when he was twelve years of age, and he qualified it then as Washington qualified it afterwards, and as one of Shakespeare's characters qualified it when he said, "If it be a sin to covet honor, I am the most offending soul alive."

But the resolve of this noble waif to be, and to do, was tempered by a diffidence or modesty which, I am disposed to think, was more often assumed than felt, for I have noticed the same affectation, or adroitness, in the greatest of men; the Apostle Paul, for instance, or Lincoln, or Darwin. Bulwer Lytton would, perhaps, call it "the hypocrisy of frankness;" St. Paul called it "a holy cunning." I do not know that Lincoln or Darwin or Hamilton ever characterized it, although in his letter to Duane, Hamilton does give it as one of his maxims that people are governed by opinion, and that opinion is based as much on appearance as on realities. And I recall a letter of Darwin's to one of his correspondents (who had stated dogmatically concerning some object in natural history that such-and-such was so) wherein the foxy old scientist fairly

chuckled and said, in effect, that what his correspondent had affirmed so positively he (Darwin) years before had suggested as a possibility, *although he was quite as convinced of its truth then as he was now!*

Can it be doubted that the instantaneous success of the "Origin of Species" was due as much to the assumed humility of Darwin in advancing his arguments as it was to the arguments themselves; or that the influence of Hamilton's writing in *The Federalist* was due as much to the calm, dispassionate, temperate tone of his arguments as to the arguments themselves? And was it not as much what Lincoln insinuated as what he said that made him President? And, in truth, it is human nature to reject with irritation arguments and advice thrust upon us, while we yield to persuasions made so adroitly that they flatter our own penetration and powers of reasoning.

To sum up Hamilton's temperament, therefore, I would say that he was nobly ambitious, but wisely cautious; sometimes most tentative when he was really most assured.

Hamilton owed much, undoubtedly, to his fine physique and to his fluent and dramatic oratory. Somewhat below medium size, he nevertheless bore himself with such a front that his figure at all times seemed commanding. His eyes were large and luminous, and it is universal testimony that upon whomsoever they rested that person felt the almost hypnotic influence of the spirit which looked from out them. If those eyes were mournful, levity was impossible; if they were angry, unseen lightnings crackled in the air!

An editorial in the *Albany Centinel* of August 29, 1804, which I find in Coleman's Collection, is a layman's testimony to the charm of Hamilton's address. Coleman's Collection, by the way, is a compilation of the facts and documents relative to the death of Hamilton, published in 1804; a rare volume, which it was my sometime good fortune to purchase at an antiquarian bookstore. The article from the *Albany Centinel* referred to, is a comment on the action of the Supreme Court in adjourning for a number of days out of respect to

the memory of Hamilton, and of ordering the court-room draped in black.

"By direction of the judges," says the editor, "the bench, the bar, including the seats of the counsellors and attorneys, the clerk's desk and table, and the wall back of the judge's seat were hung in black during the term. In no place, perhaps, could a tribute of this kind have been offered with a more striking effect. It is here, more than anywhere, that all who have attended court, with whatever motive, feel the deprivation of its late *peerless* member. It is here we recollect our first inquiries used to be, as if every gratification depended upon it: Is Hamilton in town? and if present, his engaging address and his intelligent eye never failed to interest us—to raise our expectations. When he began, we were attentive—an harmonious voice—select expressions—elevated sentiment. He divided his subject—we perceived his distinction: nothing perplexed—nothing insipid—nothing languid. He unfolded the web of his argument—we were enthralled. He refuted the sophism—we were freed. He introduced a pertinent narrative—we were interested. He modulated his voice—we were charmed. He was jocular—we smiled. He pressed serious truths—we yielded to their force. He addressed the passions—the tears glided down our cheeks. And had he raised his voice in anger, we should have trembled and wished ourselves away. Here, and in him, have we often seen the human character raised to its 'noon-tide point.' Alas, how chilling is this sable contrast!"

Such was Hamilton's power when he was thoroughly prepared. And that he was always prepared is equally well attested. His industry was as unlet-up-able as the force of gravity. Chancellor Kent says that he *ransacked* the books and hunted a precedent to its lair. The whole body of his works is a monument to his habits of industry, and attests, as well, the method and system with which he worked. When Talleyrand, that dubious genius, whose darkling star drew him to America, was walking the streets of New York one night,

he chanced to glance up at the building in which Hamilton had his law chambers, and saw from Hamilton's shadow on the office curtain that the lawyer was busily at work. On the next day the great diplomatist remarked: "Last night I saw one of the wonders of the world; a man laboring at midnight for the support of his family, who had made the fortune of a nation."

Hamilton's punctilious regard for the interests of his client, as well as his providence and forethought, is nowhere better illustrated than in the days preceding his fatal duel. In his instructions to Mr. Pendleton, who acted as his second, and who was a fellow member of the New York bar, Hamilton had said as a reason for postponing the encounter to the close of the term: "I should not think it right, in the midst of the circuit, to withdraw my services from those who may have confided important interests to me and expose them to the embarrassment of seeking other counsel who may not have time to be sufficiently instructed in their cases. I shall also want a little time to make some arrangement respecting my own affairs."

Of Hamilton's general character it is hardly necessary to speak. Of his particular character as a lawyer, I will only say that it was characterized by an integrity and moral courage which in many instances was as splendid as the quality of courage displayed at Yorktown. Take the case of *Rutgers vs. Waddington*, for example: Mrs. Rutgers was a poor widow who had fled during the Revolution and whose property had been confiscated and had passed into the hands of the defendant, a rich Tory merchant. After the Revolution she returned to claim her property, and under the trespass laws passed by the New York Legislature, she would be entitled to recover. These statutes, however, contravened some of the provisions of the treaty of peace with Great Britain, and were, in Hamilton's opinion, unconstitutional. Both public opinion and the laws of New York favored the widow; nevertheless Hamilton championed the cause of the rich defendant and succeeded in obtaining from a reluctant court the pronouncement that a treaty made by Congress was the supreme law of the land, and

that the statutes of New York contravened the treaty and were, therefore, void. On the announcement of this decision, indignation meetings were called, and both Hamilton and the court denounced in unmeasured terms. Hamilton's motives were attacked in a series of articles written by one Ledyard, who signed himself "Mentor." To these articles Hamilton replied over the signature of "Phocion," and it is not too much to say that these letters of "Phocion" fairly outrank his letters in *The Federalist*. Of course he was successful in the controversy, for it was true, as Burr once said, that whoever committed himself to paper with Hamilton was lost. Under the elucidation of "Phocion," even the public came to understand the reasons underlying the judgment of the court, and there was thus established once and forever, not only by judicial decree, but by popular approval, the doctrine that a treaty of Congress is the supreme law of the land, and that all acts or parts of acts of a state legislature in contravention of the treaty are null and void.

But perhaps a lawyer's character is nowhere more crucially tested than in the matter of fees; and here, it seems to me, Hamilton was at times Quixotic. Aside from the many causes which he espoused without fees, the evidences are convincing that his charges at all times were very moderate. On one occasion he had agreed to conduct a case for a thousand dollars. It proved to be a more protracted and difficult litigation than he had anticipated, but he finally won it. His client, as a token of his appreciation, offered to send him two thousand dollars, but Hamilton replied: "I must decline it; when I undertook this case I mentioned one thousand dollars. It has given me more trouble than I expected, it might have given me less; I cannot think of accepting this additional sum under the flush of grateful feeling on gaining a doubtful cause."

In the case of *LeGuen vs. Gouverneur and Kemble*, Hamilton and Burr associated, were opposed by Gouverneur Morris, a relative of one of the defendants. The case had been litigated in many courts and had become famous. Hamilton and

Burr won the cause and their grateful client, whose whole fortune had been at stake and who had recovered one hundred and twenty-five thousand dollars, tendered to Hamilton a fee of eight thousand dollars. Hamilton declared that one thousand was sufficient, and would receive no more. LeGuen made a like tender of eight thousand dollars to Burr, who, it is needless to say, accepted it out of hand.

Hamilton's personality was one of the most winsome imaginable. There was, to begin with, dignity; not adventitious but innate. We can glimpse it in his letter to Philip Schuyler already referred to, describing his falling out with Washington. The fine pride revealed in this letter would be remarkable in a man twice his years, and in a youth of twenty-four the dignity of selfhood which it portrays is most extraordinary. Detailing the circumstances of the unfortunate affair, Hamilton writes: "Two days ago the General and I passed each other on the stairs. He told me he wanted to speak to me. I answered that I would wait upon him immediately. I went below and delivered to Mr. Tilghman a letter to be sent to the Commissary containing an order of a pressing and interesting nature. Returning to the General I was stopped on the way by the Marquis La Fayette and we conversed together about a minute on a matter of business. He can testify how impatient I was to get back and that I left him in a manner, which, but for our intimacy, would have been more than abrupt. Instead of finding the General as usual, in his room, I met him at the head of the stairs, where, accosting me in an angry tone, 'Colonel Hamilton,' said he, 'you have kept me waiting at the head of the stairs these ten minutes; I must tell you, sir, you treat me with disrespect.' I replied without petulancy but with decision, 'I am not conscious of it, sir, but since you have thought it necessary to tell me so, we part.' 'Very well, sir, said he, 'if it is your choice.'—or something to this effect, and we separated. I sincerely believe my absence which gave so much umbrage did not last two minutes."



It seems that the General, repenting of his hasty action, sent the aforementioned Tilghman to Hamilton desiring an interview, hoping to heal a difference which could only have happened in a moment of passion. The youth replied to these overtures of Washington as follows :

"I requested Mr. Tilghman to tell him, first, that I had taken my resolution in a manner not to be revoked. Second, that as a conversation could serve no other purpose than to produce explanations mutually disagreeable, while I certainly would not refuse an interview if he desired it, yet I would be happy if he would permit me to decline it. Third, that, though determined to leave the family, the same principle which had kept me so long in it, would continue to direct my conduct toward him when out of it. Fourth, that, however, I did not wish to distress him or the public business by quitting him before he could derive other assistance by the return of some of the gentlemen who were absent. Fifth, and that in the meantime it depended on him to let our behavior to each other be the same as if nothing had happened."

And he adds: "Perhaps you may think I was precipitate in rejecting the overture made by the General to an accommodation, but I must assure you, my dear sir, it was not the effect of resentment. It was the deliberate result of maxims I had long formed for the government of my conduct. \* \* \* I was always determined, if there should ever happen a breach between us, never to consent to an accommodation. *I was persuaded that when once that nice barrier which marked the boundaries of what we owed each other should be thrown down, it might be propped but could never be restored.*"

There is nothing in this letter for which one must make allowances on account of youth, nothing to which any man of sensibility could possibly take exception. That Hamilton's conduct did not give offense to Washington is abundantly proved by the intimate relationship between them ever afterward maintained.

Hamilton was far from being distant or inaccessible. On the contrary, he was always affable and at times even play-

fully familiar. Between the acceptance of Burr's challenge, which was in the latter part of June, 1804, and the actual encounter, on July 11th, there was a meeting of the Society of the Cincinnati. Hamilton, who had been chosen President-General of the Society, was obliged to preside, and one of his biographers says: "He was urged to sing, and when the company would take no refusal, he gave them the 'Ballad of the Drum.' Burr sat at his left hand and was observed to be silent and gloomy, gazing with marked and fixed earnestness at Hamilton during this song."

It was Hamilton's swan song; but the fact that he sang at all shows that he was in the habit of piping up on occasion, when good fellowship was expected rather than good music.

In the memoirs of Chancellor Kent, recently published by his great-grandson, we are told that on one of the circuits upon which Kent and Hamilton were together, the Judge had retired early on account of some slight indisposition. It turned suddenly cold during the night and Hamilton, evidently disturbed by the indisposition of his friend, entered the Judge's room armed with an extra blanket which he insisted on tucking carefully about the recumbent figure, saying: "Sleep warm, little Judge, and get well. What should we do if anything should happen to you?"

Hamilton was not only affable but affectionate, though he had schooled himself, I think, to subordinate his affections to his cooler judgments.

When in 1779 John Laurens, to my thinking, one of the finest and most dramatic characters of the Revolution, withdrew from Washington's staff, Hamilton wrote him as follows:

"Cold in my professions—warm in my friendships—I wish, my dear Laurens, it were in my power by actions rather than words, to convince you that I love you. I shall only tell you that till you bid us adieu I hardly knew the value you had taught my heart to set upon you. Indeed, my friend, it was not well done. You know the opinion I entertain for mankind; and how much it is my desire to preserve myself from

the more particular attachments and to keep my happiness independent of the caprices of others. You shouldn't have taken advantage of my sensibility to steal into my affections without my consent."

La Fayette was from the first, and continued to be, an ardent lover of Hamilton. In April, 1782, he wrote to him as follows: "Dear Hamilton: However silent you may please to be, I will, nevertheless, remind you of a friend who loves you tenderly and who, by his attachment, deserves a great share in your affection."

And again in 1785, writing from Paris, La Fayette says: "My dear Hamilton: Although I have just now written to McHenry requesting him to impart my gazette to you, a very barren one indeed, I feel within myself a want to tell you that I love you tenderly."

And La Fayette is not to be blamed, for it was impossible not to love that dauntless, chivalric, transcendent genius, who dominated the hearts as well as the minds of all who once encountered him.

Of course Hamilton achieved success in the prosecution of his profession. The foregoing has been written to little purpose if it does not explain the whyfore. On the withdrawal of Jay he was offered the appointment of Chief Justice of the United States, and declined it. The volumes of his correspondence contain letters from notabilities throughout the world introducing to Hamilton those who desired his professional services. Kent says that he was engaged as counsel in every case of real importance. His own letters are full of apologies for neglecting his absent friends, the invariable excuse being the pressure of professional engagements. In a letter to McHenry, Secretary of War, urging the latter not to withhold from him his meager pay of Inspector-General, inasmuch as he was a man of family and without other means than his professional income, Hamilton says that the law practice which he had sacrificed to take command of the army was from three to four thousand pounds a year. In those days this was a goodly income.

Of tributes to his legal abilities there is no end. John Marshall ranked him, next to Washington, the greatest character in history. Kent's eulogies are well known and are enthusiastic to the verge of extravagance. The Chancellor first saw Hamilton at the bar, addressing a court and jury, in the summer of 1784, when Kent himself was a stripling, and Hamilton made a lasting impression upon that budding jurist.

The case of *Croswell ads. The People* was heard before the Supreme Court in the February term, 1804, and was therefore one of the last cases Hamilton ever argued.

Croswell had been indicted and convicted of a libel upon Thomas Jefferson, then President of the United States. The defendant offered to prove the truth of the charge, but the trial judge overruled the testimony and charged the jury that it was not in their province to decide on the intent of the defendant or whether the libel was true or false or malicious, and that those questions belonged exclusively to the court. A verdict was returned for the plaintiff. Motion for new trial was overruled and the case appealed. Hamilton was retained to argue the appeal. Chancellor Kent says that his argument in the case was the greatest forensic effort Hamilton ever made, for he was arguing in favor of the liberty of the press and against the common law dogma that the greater the truth, the greater the libel.

"For the last six years of his life," says Chancellor Kent, "he was arguing causes before me, and I have been sensibly struck in a thousand instances with his habitual reverence for truth, his candor, his ardent attachment to civil liberty, his indignation at oppression of every kind, his abhorrence of every semblance of fraud, his reverence for justice and his sound legal principles drawn by clear and logical deductions from the purest Christian ethics and from the very foundations of all rational and practical jurisprudence. He was blessed with a very amiable, generous, tender and charitable disposition, and he had the greatest simplicity of any man I ever knew. It was impossible not to love as well as to respect and admire him."

Ambrose Spencer, who, as a member of the bar, had had many tilts with Hamilton, and who on one occasion had been flagellated by Hamilton's sarcasm, thus testifies: "Alexander Hamilton was the greatest man this country ever produced. I knew him well. I was in situations often to observe and study him. I saw him at the bar and heard him argue cases before me while I sat as a judge on the bench. Webster has done the same. In power of reason, Hamilton was the equal of Webster; and more than this can be said of no man. In creative power, Hamilton was infinitely Webster's superior."

After such exalted tributes from his contemporaries—men who knew him, and whose own greatness estops criticism either of their candor or their faculties of discernment—to close this essay with a panegyric of mine would be a sorry climax. I choose, rather, to conclude in the words of Hamilton himself—words which were addressed to a former generation, to be sure, but which still have in them a note of warning that our own generation would do well to heed: "Those," he says, in one of his "Phocion" letters, "those who are at present entrusted with power in all these infant republics, hold the most sacred deposit that ever was confided to human hands. 'Tis with governments as with individuals; first impression and early habits give a lasting bias to the temper and character. Our governments, hitherto, have no habits. How important to the happiness, not of America alone, but of mankind, that they should acquire good ones. \* \* \* The world has its eye upon America. The noble struggle we have made in the cause of liberty has occasioned a kind of revolution in human sentiment. The influence of our example has penetrated the gloomy regions of despotism, and has pointed the way to inquiries which may shake it to its deepest foundations. \* \* \*

"To ripen inquiry into action, it remains for us to justify the Revolution by its fruits."

THE LAW OF NEW CONDITIONS—ILLUSTRATED BY THE LAW OF IRRIGATION.

BY

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Although the American colonies successfully renounced the authority of the English government, they were not disposed to renounce the authority of English jurisprudence. In English history and the bills, concessions and charters made and granted from time to time, they found the principles of civil liberty upon which they based their resistance to the exactions of the home government and to which, among other things, they appealed in justification of their declaration of independence. Likewise, in English jurisprudence they recognized the surest avenue to a just disposition of the legal complications which would arise with the growth of the colonies and the expansion of their commercial life. The sundering of the chains which had bound them politically to the mother country in no wise weakened their loyalty and devotion to those maxims and principles of jurisprudence which the customs, usages and habits of centuries of English life had evolved as the customary or common law of England. The reasons for this were many and obvious. As by heredity and choice the inhabitants of the colonies had retained the habits, customs, traditions and modes of thought of their English ancestry, and as the natural conditions of the new country closely resembled those of the old, it followed that what had been declared as law in the older country should, by reason of social and physical parallelism, be deemed equally applicable in the younger.

Thus it came about that when the thirteen colonies became thirteen states, the current of the law was not changed, and that which had been pronounced by Coke and Bacon, Mans-

field and Hardwicke, and that which had been set in order by the commentators as the law of England, continued to be the fountain of their jurisprudence. The law of waters, as most of you know it to-day and as it has been applied in the older states since their creation, is the law of waters as translated to this country by the earliest English settlers. The current of modern decisions in England and the older states has been so far in line with the common law conception of the status of water that the authorities may be used interchangeably.

With tide waters and the bed and soil of tidal rivers and the use and control of navigable streams and lakes, this paper has nothing to do. It is with running streams and the ownership and uses thereof, that it is my particular purpose to deal. The law of England as applied to such waters is generally known as the riparian doctrine. The elements of this doctrine are substantially as follows: Those who own the soil adjacent to running streams are held to own the soil to the center line of the stream; and, as an inseparable incident to that ownership, to be entitled to have the water flow as it has been accustomed to flow from time immemorial, without material diminution or alteration. This incident of ownership of land abutting a stream is denominated a riparian right and the possessor thereof is denominated a riparian proprietor.

All the learning of the common law coming within the scope of the riparian doctrine has reference to the relative rights and obligations of the several riparian proprietors along a given stream as between themselves. The question is never put as to the relative rights of riparian proprietors and the public nor the owners of lands not abutting upon the stream. The chief concern has been to determine under what conditions and to what extent each riparian proprietor may, as against those occupying the same position, use the body or the momentum of the flow of the water. Each proprietor is said to have an equal right. While keeping in view, as near as may be, this equality of right, the law permits each riparian proprietor to make such use of the water, as it comes to his

land, as may diminish it in volume, as by its application to domestic purposes; or may impair its quality, as by its application to certain manufacturing purposes; provided, however, that the use shall not be such as materially to diminish its volume or impair its quality when delivered to the proprietor below.

Various and sundry opinions appear in the books as to the uses which may be considered reasonable and therefore capable of being exercised by one proprietor against another. The essential feature of all the decisions, for the purposes of this paper, is that they deny any right permanently to remove water from the channel of a stream and, as the expression is now used in the arid states, put it to a "consumptive use." Therefore, in England and in the original thirteen, as well as in most of the states in which the common law has been adopted, it is not permissible for a riparian proprietor, and much less one who is not such, to divert the water of running streams and use the same for the irrigation of lands and the cultivation of crops. In the localities where the law is thus applied, there is sufficient rain-fall to moisten the land and to bring crops to maturity,—a condition which may furnish some justification for the judicial declaration that the right of a riparian proprietor to enjoy the flow of water upon his land is one "*jure naturae*."

But when we consider running streams as wise provisions of nature which, in the economy of industrial life, should be applied to the greatest range of beneficial uses, we may well inquire whether the language of the common law, "*aqua currit et debet currere ut currere solebat*," by which it is required that the waters of all natural streams shall continue in their course until they are discharged into the sea, having served only the minor uses of riparian proprietors, deserves to fall within Blackstone's encomium of the common law as the "perfection of reason." Blackstone, were he with us, might justify this famous expression by referring to those well-known principles of interpretation and construction which command us



to ascertain the meaning of an instrument by all its parts, and thus fairly plant himself and his expression upon that all-prevailing maxim of the common law, that when the reason of the law ceases the law itself ceases.

One of the most marked evidences of the evolutionary history of the common law is its flexibility and adaptability under new conditions. Neither the enlargement of England's internal or maritime trade and commerce, nor the subjection of new lands or an alien people to British dominion, have been checked or even embarrassed by the common law, nor have the principles of that law failed of successful application by difference in race, climate, soil, or social or physical characteristics in any land over which the "Union Jack" has floated. In this respect it may be said that the common law of England is more pervasive than the constitution of the United States; it follows the flag. It is, however, needless to trace the fortunes of the common law under English auspices, since the effect upon it of new conditions may be studied within our own immediate territory.

With all his political wisdom, in the expression of which he was unfortunately guided more by the temperment of the French than of the English people, and which, therefore, dimmed his vision of the law of expansion, it is manifest by the record that Jefferson had but little conception of the effect which would be produced upon the fortunes and policy of the American people by his acquisition of Louisiana. This event, which occurred almost one hundred years ago, followed by the annexation of Texas in 1845 and the cession of Mexico in 1848, brought within the dominion of the Federal government a vast territory upon which were written the words "public domain." Over this "public domain" it was the exclusive prerogative of Congress to exercise jurisdiction. Although we were then but a few years removed from the promulgation of the Declaration of Independence and the adoption of the Federal Constitution, we seem, in disposing of our new possessions, to have been but little concerned about all just powers of gov-

ernment being derived from the consent of the governed, or about the inhabitants of the newly acquired territory being endowed with all the rights and privileges guaranteed by the Constitution.

We proceeded in our own characteristically practical way and met the situation as completely and satisfactorily as we seem likely to meet all the various problems of our expanding national life. Of the fertile prairies, upland plains, towering mountains, forbidding deserts and rich valleys with their running streams and hidden deposits of the precious metals, the Government might have become a great landed proprietor with tribute-rendering tenants, enjoying, with national, if not individual, pride, that right of property of which, as Blackstone says, "There is nothing which so truly strikes the imagination or engages the affection of mankind." As the greatest riparian proprietor of history, it might have decreed that the rivers and streams should forever continue in their course without diminution or alteration until with the waste of idleness their waters mingled with the sea. But Congress was alive to the situation. This great domain, with its immediate and future possibilities, should be made the field of individual enterprise and effort; here homes should be made and the courage of the pioneer should discover and develop its natural and material resources. A system of land laws was adopted which, with all its imperfections, has been eminently successful in that it has converted nearly all of the agricultural and mineral lands of the public domain into private holdings, and at this writing can point to millions of inhabitants living prosperously, and therefore happily, upon soil that one hundred years ago this Government did not possess and had not the slightest thought of acquiring.

It is clear there must have been contained in the Government's method of disposing of its property, some great principle of reason and justice; else whence this unequalled diffusion of benefits, this astonishing degree of development?

It seems to me that consciously or unconsciously the scheme of legislation which dealt with the public domain proceeded

upon the theory that not only the most defensible, but the most fruitful title was that which rested upon an appropriation followed by a beneficial use; in other words, that Congress acted upon a policy which foreshadowed, and which in its subsequent legal application to the acquisition of title to various forms of public property, became known as, "the doctrine of appropriation to beneficial uses."

The term "public lands" as habitually used by Congress, implies a meaning midway between that suggested by setting land apart for government uses and that which prevails in England with respect to certain lands enjoyed by right of common. It involved the idea that, though the title was in the Government, it was common property to be converted into exclusive private holdings. The Government was not to dispose of it as the ordinary private owner would do—for the highest price obtainable and without respect to whether it should become a game preserve or cultivated fields, but rather to direct the title in channels of usefulness.

I think it will be admitted, when the language of the constitution of the state of Colorado concerning water is considered, and to which I shall call attention later on, that if the word "land" were substituted for "water," it would fairly express the status of the Government's possessions. It was not inappropriately characterized by flamboyant statesmen as the common heritage of the people.

This conception of the relation which the sovereign authority should hold to the land acquired by it, as between it and the people, was original in this country and novel in the world's history, differing as it did from the feudal theory which originally obtained in Europe and which was introduced into England at the time of the conquest. The influence of the two conceptions, the feudal and the American, will explain in part the difference between the common law view of the status of water and that which, as I shall hereafter notice, now prevails in a very considerable part of what was once exclusively public domain.

The common heritage or fund being dedicated to beneficial use as the condition of acquiring private ownership, it would seem to follow that whatever of the common fund was distinct and substantial and capable of being put to its own specific beneficial capabilities, should, upon its appropriation and use, be the subject of a distinct title. Thus the land, the mineral and the water were specific in kind and use and should be acquired separately. True it is that the water was, by the common law, deemed a part of the land. So also, in reason, were the minerals. Gold and silver within British possessions belonged to the Crown, because deemed appropriate to crown uses. But in this country no distinction was drawn; all were a part of the common heritage or fund; all might ultimately become private property.

In disposing of lands considered available for agricultural purposes, Congress enacted laws in which this principle of appropriation to beneficial uses was clearly marked. The homestead law in particular prescribed that he who should enter upon land and cultivate it for a given number of years should be entitled to a patent. The preëmption law, though not so stringent in conditions concerning the use of the land filed on, operated in the same direction. The mineral lands were thrown open to exploration, occupation and purchase, with conditions which made the continued use of the same equal to a patent. As to the natural streams, Congress made no provision concerning the acquisition of their corpus or flow, except as by judicial construction certain general statutes, to which attention will be directed hereafter, have been held to authorize such acquisition.

I have thus adverted in a hasty way to the new conditions which were presented by the enlargement of the American possessions in 1803 and subsequent years and the initiation of certain legal theories which could have had no field of operation in the mother country.

While we were in the act of acquiring a considerable portion of this Trans-Mississippi territory and debating the

methods by which the public land should be disposed of, an event occurred which caused these prairies, plains, mountains and deserts to be dotted with traveling caravans, finding their way by streams and passes along and through which the white man had never been before, seeking a new land of promise, a new Eldorado on the shores of the Pacific. Gold had been found in California. Of that wonderful migration, of its hardships, horrors and romance, no lawyer in active practice has the time to tell nor the skill to furnish an adequate portrait.

There were developed in California several new brands of law designed to meet new conditions, all of an extremely summary character, and in their enforcement attended with considerable mortality. The miners' law and lynch law were supreme in the community, and while they were brief and crude they nevertheless contained the germ and spirit of justice as completely as the more elaborate codes of highly organized society. Here was a virgin country of which the general government was virtually sole proprietor. Its wealth of gold, under other jurisdictions, would have belonged to the proprietor, but the authorities at Washington laid no hand upon those who were ravishing the soil; in fact, they investigated the find, reported its richness and encouraged the emigration.

There was a golden stream flowing into the channels of commerce more valuable than the waters flowing from the Sierras to the sea, but these waters of the Sierras became in turn as necessary to the production of gold as the smelter is to the mine. While many of the alluvial deposits were in the bed of or adjoining the streams and thus easily worked with the primitive rocker or sluice boxes, the more important finds were at such elevations and distances from the water supply that it became necessary to divert the streams at points far removed from the place of use. In the race for wealth, the water, as a common means by which alone the gold could be separated, became as much an object of acquisition as the gold itself. In many instances there was not enough water for

all and its value and the conflicts concerning it were consequently intensified.

Out of the necessity of law and order and the determination of conflicting claims, there grew up among the miners a new law of waters. It was held that he who had first gone upon a stream, diverted water and within a reasonable time applied it to mining uses, was entitled to be first served to the extent of his necessities, and that as to any residue it might be taken by the next appropriator in time and so on in succession to the exhaustion of the stream. Here it will be observed but little respect was paid to the riparian doctrine or the theoretical right of the government as riparian proprietor to have the water flow as it had been wont to flow from time immemorial. Nevertheless, the common law was not entirely overlooked. It was very properly assumed that under the conditions presented the water was an unappropriated element in nature, to which the common law rule that priority of occupation or use gave title was applicable. Thus, while disregarding the law in one respect, they enforced it in another, and the maxim "*qui prior est tempore potior est jure*" became as effective in the Sierras as in that older time when it was decreed that Jacob should have the well because he digged it.

It may as well be observed here as elsewhere that in all cases where new conditions have apparently rendered the common law inapplicable, it has been in relation to its technical and artificial rules, and that invariably the maxims and principles of law, which are of its root, have been accepted.

Co-incident with the mad rush to California was a less exuberant, but no less determined, movement to the shores of the great Salt Lake. In this desert of shifting sand and scraggly sage brush amid whose solitudes many ardent argonauts had perished, it was the purpose of a proscribed religious sect to settle. The Mormon trek with its push carts and ox teams was not less pathetic or picturesque than that of the gold hunters. For the visions of sudden wealth which led the latter, it substituted the divine force of a religious conviction.

The Mormons sought no wealth except as with the processes of the years it might come from the abundance of their harvests. They were tillers of the soil, and the supreme command of their leader, Brigham Young, was that no search should be made for precious metals. What they faced in this remote and inhospitable portion of the public domain, and the part the natural streams played in its reclamation, is best told by Wilford Woodruff, late President of the Mormon church.

“This country that we arrived upon was called ‘The Great American Desert’ and certainly as far as we could see it did not deviate from that in the least. We found a barren desert here. There was no mark of the Anglo-Saxon race, no mark of the white man. Everything was barren, dry and desert. We had a desire to try the soil to know what it would produce. Of course all this company, nearly the whole of us, were born and raised in the New England states—Vermont, Maine, Massachusetts, Connecticut—and had no experience in irrigation. We pitched our camp, put some teams on our plow and undertook to plow the earth, but we found that neither wood nor iron was strong enough to make furrows in this soil; it was like adamant. Of course we had to turn water on it. We would have done anything. We went and turned out City Creek. We turned it over our ground. When we came to put our teams upon it, of course they sank down in the mud. We had to wait until this land dried enough to hold our teams up. We put in our crops and stayed there. In the meantime President Young laid out Salt Lake City in the midst of sage brush, without a house within hundreds of miles of us. Now what I wish to say is this: You come to Salt Lake City today; you see the city, you go through the country. Here are thousands of miles, I might say, through these mountains filled with cities, towns, villages, gardens and orchards and the produce of the earth that sustains people. Without the water, without irrigation, this country would be as barren as we found it in 1847. Whoever occupies the land has got to have the water to perform the work.”

Thus there was presented in the desert a necessity for the use of water identically the same as that contemporaneously existing on the Pacific slope. The evolution of the law of waters in both sections occurred simultaneously, but without any mutual assistance. New York and Manilla are not so far removed from each other in communication to-day as Salt Lake City and the gold diggings were then, and there consequently was no opportunity for an exchange of views or precedents. By that curious coincidence in anthropology which enables us to find in Central Asia domestic implements of stone, the same in form and use as those found in Arizona, thus indicating a similar stage of progress, we find that the condition in Utah spontaneously bred the same legal conception of the right to water that prevailed in California. In both localities the foundation of the right was the application of the water to beneficial uses. While the one winnowed the golden sand, the other winnowed the golden grain. The harvest of gold is nearly gathered; that of the grain and the other products of the soil continues in ever-increasing volume—so that to-day this new law of waters is invoked almost exclusively by the needs of agriculture.

The next tidal wave of population westward was caused by the discovery of gold near Pike's Peak, in 1858. It broke upon the mountains, which, from the steps of the Capitol, you may see every cloudless day lifting their venerable and venerated summits to the sky. Its recession left the Territory (now State) of Colorado, upon which now plays the steady ebb and flow of normal tides of population. Here, both as to mining and agriculture, the conditions and necessities of California and Salt Lake were repeated. All of the present limits of Colorado north of the Arkansas River and east of the summit of the divide was, from 1854 to 1861, within the jurisdiction of the Territory of Kansas. Denver was named for its territorial Governor. One of the few legislative acts of the Territory of Kansas made specifically applicable to this portion of the Territory, was one which recognized the necessity



of diverting the water of running streams for irrigation, and which, by authorizing such diversion, confirmed the principle upon which the right to do so was and is claimed. By an act approved February 21, 1860, the Legislature of that Territory created The Capitol Hydraulic Company and granted to it the power and exclusive right to direct the water from the bed of South Platte River at any point they may select between the Platte Canon and the mouth of Cherry Creek, and also to divert the water from the bed of Cherry Creek at any point within six miles of its mouth, and to conduct the water from both said streams by canal or ditch across the plains or intervening lands to the cities of Auraria, Denver and Highland, in the County of Arapahoe, Territory of Kansas, and to have the exclusive privilege of using and controlling the same for mechanical, agricultural, mining and city purposes. The ditch constructed by the authority of that act is the city ditch of to-day, which, after serving the farmers and some of the streets along its course, discharges its waters into the lakes of the City Park. The significance of this bit of history will be best understood when contrasted with the present position of the State of Kansas concerning the right to divert water in Colorado for purposes of irrigation, to which I shall have occasion to call attention later.

The Territory of Colorado was organized in 1861, embracing within its limits practically the entire crest of the Rocky Mountain range, and including the sources of the streams which drain into the Gulf of Mexico, the Gulf of California and the Pacific Ocean. As was well said by William Gilpin, once Governor of the Territory, "We straddle the axis of the temperate zone."

At the first legislative session in 1861, a bill was enacted providing that "All persons who claim, own or hold a possessory right or title to any land or parcel of land within the boundary of Colorado Territory, shall be entitled to the use of the water of said stream, creek or river, for the purposes of irrigation and making said claims available to the full extent

of the soil for agricultural purposes." It will be noticed that in this statute the words "possessory right or title" are used. The fact is that up to this time neither the mining or agricultural lands of California, Utah or Colorado, or of any of the other states or territories, had to any extent become the subject of private ownership. The title to land, water and mines was in the general government. There was, however, a title locally recognized as to all forms of property, which was manifested by occupation and use and which as to lands was, in the California courts, characterized as "*pedis possessio*." The Government had looked on quiescently, if not with satisfaction, to this winning of the West, permitting its natural resources to be utilized under local laws, customs, rules and usages, without protest or attempt at regulation. It was obvious, of course, that so far as the natural streams were concerned they belonged to the Government and that if the riparian doctrine were to prevail, the continuance of their use for irrigation and other purposes must depend upon its consent. Whether in fact the riparian doctrine was or is applicable to the landed possessions of the United States may well be doubted; since it is well known that while the states generally have adopted the common law, Congress has never done so and the Federal Government notably has no common law.

That the Supreme Court of the United States has a conception of the relation of the general government to the waters of public lands quite different from that produced by the riparian doctrine, is manifested in its decision in what is locally known as the "Elephant Butte Dam Case."<sup>1</sup> However, Congress, feeling that it should speak respecting the use of water for irrigation and other purposes, in 1866 adopted a statute reciting that "Whenever by priority of possession, rights to the use of water for mining, agricultural, manufacturing or other purposes, have vested and accrued and the same are recognized and acknowledged by the local customs, laws and decisions of courts, the possessors and owners of such vested rights

<sup>1</sup> *United States vs. Rio Grande Irrigation Co.*, 174 U. S. 690.

shall be maintained and protected in the same, and the right-of-way for the construction of ditches and canals for the purposes herein specified, is acknowledged and confirmed." Of this statute the Supreme Court of the United States afterwards said: It was rather a voluntary recognition of a pre-existing right of possession constituting a valid claim to its continued use, than the establishment of a new one."

Following this history of the use of water, came the first decision of the Supreme Court of the Territory of Colorado in a case ever since recognized as a leading one, in which the Honorable Moses Hallett who, since the organization of the State has been its only Federal Judge, and who is now one of the honored members of this Association, succinctly set forth the judicial conception of the part which water should play in the development of the arid west. In the case of *Yunkers vs. Nichols*, he used these words:

"In England, and in this country, it is considered that the right of one person to conduct water over the land of another is an interest in real estate, which must be conveyed by deed in compliance with the terms of the statute of frauds. In countries where the humidity of the climate is sufficient to supply moisture to plants, there can be no reason for distinguishing this from other easements in the soil, and therefore the law of England, and of most of our states on this point will be found in the general rules relating to real property.

"The principles of the law are undoubtedly of universal application, but some latitude of construction must be allowed to meet the various conditions of life in different countries. The principles of the decalogue may be applied to the conduct of men in every country and clime, but rules respecting the tenure of property must yield to the physical laws of nature, whenever such laws exert a controlling influence.

"In a dry and thirsty land it is necessary to divert the waters of streams from their natural channels, in order to obtain the fruits of the soil, and this necessity is so universal and imperious that it claims recognition of the law. The value

and usefulness of agricultural lands, in this territory, depend upon the supply of water for irrigation, and this can only be obtained by constructing artificial channels through which it may flow over adjacent lands.

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“When the lands of this territory were derived from the general government, they were subject to the law of nature, which holds them barren until awakened to fertility by nourishing streams of water, and the purchasers could have no benefit from the grant without the right to irrigate them.”

If this paper serves its purpose, you will discover that by this time there had been evolved in this western or Rocky Mountain country, a conception of the status of water which elevated it to the dignity of a distinct usufructuary estate or right of property which was in denial of the common law theory of its being an inseparable incident of the land over which it flowed. Indeed, in practical operation, it has long since been discovered that in this arid country the rule of the common law is reversed in that here the water is the principal thing and the land the incident.

This new conception of the status of water was crystalized in the phraseology of the constitution of Colorado adopted in 1876 as follows:

“The water of every natural stream not heretofore appropriated within the state of Colorado is hereby declared to be the property of the public, and the same is dedicated to the use of the people of the state subject to appropriation as hereinafter provided. The right to divert unappropriated waters of any natural stream for beneficial uses shall never be denied. Priority of appropriation shall give the better right as between those using the water for the same purpose, but when the waters of any natural stream are not sufficient for the service of all those desiring the use of the same, those using the water for domestic purposes shall have the preference over those claiming for any other purpose, and those using the

water for agricultural purposes shall have the preference over those using the same for manufacturing purposes."

As by the enabling Act of Congress the people of Colorado were authorized to form a constitution and state government which of necessity would authorize the adoption of such policy as might be consistent with the needs of the new state, and as, by act of the President, the state was admitted upon the foundation prepared by the constitution, it would seem that to the extent the state assumed ownership and control of the natural streams, the general government relinquished it. At least this has always been the belief of the legislative, executive and judicial departments of the state. In that belief, the General Assembly in 1879 and 1881 passed acts providing for the regulation of the use of water for irrigation and for settling the priority of right thereto. Prior to that time numerous ditches had been constructed, diverting water from the streams on the Atlantic slope, most of which were small and of individual or community use, and the water had been applied generally to lands immediately adjoining and nearly on the same level as the stream, known as "bottom lands." The early settlers considered the bluff or higher lands unfit for cultivation and had no thought of any attempts being made to reclaim them by irrigation. But the promoters of the Greeley colony, which was located in 1870, thought differently, and a ditch, then considered large, was constructed to water the lands lying at a distance from the Cache la Poudre River. It was soon proven that the higher lands were the more valuable, and with this discovery set in the era of large corporate canals designed to extend miles from the source of supply and to furnish water to all those owning or acquiring lands under such canals who might choose to buy water rights therein.

It was evident that the new movement would culminate in such demands upon the streams that a conflict, both personal and legal, would ensue, and that to avoid this some tribunal should be authorized to establish the relative rights of appro-

priators from a given stream so that the state, by officials designated for that purpose, might superintend the distribution in accordance with settled titles to water. With this object in view, the statutes mentioned were adopted and duly set in operation. The users of water in a given district were, by certain prescribed methods, called into the District Court and required, by written statement and proof in support of the same, to set forth and establish the date when they first appropriated water and the volume they had put to beneficial uses. This was a sort of *omnium gatherum* and performed the purpose of a universal bill of peace. Decrees were entered which stated the time of commencement of each ditch or canal and the amount of water diverted and carried through the same and put to beneficial use, the relative priority of the parties being determined by the maxim, which I have already mentioned, "First in time, first in right."

These proceedings may be said to mark in Colorado the climax of the evolution of that law of waters which, founded upon the doctrine of appropriation to beneficial uses, culminates in a distinct usufructuary title to water, thus standing in marked contrast with that law of waters which, founded upon the right of a riparian proprietor to enjoy the flow of water over his land without regard to use, culminated in the doctrine of riparian rights.

Notwithstanding the apparent settlement of rights to water along the lines which I have so inadequately portrayed, there were those who still contended that the common law doctrine should prevail, or that, if it did not prevail to its full extent, it should have a modified authority. That there remained a shadow of such authority was denied and the matter set at rest for this jurisdiction in a decision of the Supreme Court in which Judge Helm said:

"It is contended by counsel for appellants that the common law principles of riparian proprietorship prevailed in Colorado until 1876, and that the doctrine of priority of right to water by priority of appropriation thereof was first recognized

and adopted in the constitution. But we think the latter doctrine has existed from the date of the earliest appropriations of water within the boundaries of the state. The climate is dry, and the soil, when moistened only by the usual rain-fall, is arid and unproductive; except in a few favored sections, artificial irrigation for agriculture is an absolute necessity. Water in the various streams thus acquires a value unknown in moister climates. Instead of being a mere incident to the soil, it rises, when appropriated, to the dignity of a distinct usufructuary estate or right of property. It has always been the policy of the national, as well as the territorial and state governments, to encourage the diversion and use of water in this country for agriculture; and vast expenditures of time and money have been made in reclaiming and fertilizing by irrigation portions of our unproductive territory. Houses have been built and permanent improvements made; the soil has been cultivated and thousands of acres have been rendered immensely valuable, with the understanding that appropriations of water would be protected. Deny the doctrine of priority or superiority of right by priority of appropriation, and a great part of the value of all this property is at once destroyed.

“The right to water in this country, by priority of appropriation thereof, we think it is and always has been the duty of the national and state governments to protect. The right itself, and the obligation to protect it, existed prior to legislation on the subject of irrigation. It is entitled to protection as well after patent to a third party of the land over which the natural stream flows, as when such land is a part of the public domain; and it is immaterial whether or not it be mentioned in the patent and expressly excluded from the grant.

“The act of congress protecting in patents such right in water appropriated, when recognized by local customs and laws, ‘was rather a voluntary recognition of a pre-existing right of possession, constituting a valid claim to its continued use, than the establishment of a new one.’ *Broder vs. Notoma W. & M. Co.*, 101 U. S. 274.

"We conclude then, that the common law doctrine, giving the riparian owner a right to the flow of water in its natural channel upon and over his lands, even though he makes no beneficial use thereof, is inapplicable to Colorado. Imperative necessity, unknown to the countries which gave it birth, compels the recognition of another doctrine in conflict therewith. And we hold that, in the absence of express statutes to the contrary, the first appropriator of water from a natural stream for a beneficial purpose has, with the qualifications contained in the constitution, a prior right thereto, to the extent of such appropriation."<sup>1</sup>

In other states, where aridity is not universal, as in California, Oregon and Washington, entire acquiescence in this view is not expressed. These states maintain the common law doctrine of riparian rights, but with such modifications as bend it to the new conditions presented. The observation of Von Ihling in his "Struggle for Law," that a concrete legal right or principle of law, which, simply because it has come into existence, claims an unlimited and therefore eternal existence, is a child lifting its arm against its own mother, is peculiarly applicable to their situation. The decisions in these states enlarge the meaning of the term "reasonable" which marked the limits of the riparian owner's use at common law, by making it include irrigation. They further extend the term "riparian lands" which formerly meant only those lands immediately contiguous to a stream, to include all lands within the water shed or drainage of a stream. They also hold that if an owner of land has not sufficient frontage upon the river to take the water out immediately upon his own land, he may cross the land of others and intercept the stream at a higher point. They bring the doctrine of riparian rights to such a stage that what may be called the modern common law conception of the status of water approaches very closely that more natural and philosophical status which commits its owner-

<sup>1</sup> Coffin vs. Left Hand Ditch Co., 6 Colo. 443.



ship to the people at large and its use to those who divert it for beneficial purposes.

In this paper I have drawn upon the history, statutes and decisions of Colorado; first, because the investigators of this subject have complimented the state upon being the pioneer in the law and science of irrigation; and, second, because in all essential particulars the law and practice in other states and territories of the arid West are substantially the same.

The sketch which I have given you may convey some slight conception of what was meant by selecting the subject "The Law of New Conditions as Illustrated by the Law of Irrigation." Of the various ramifications and peculiarities of that law, and of some of the curious things which courts still insist on doing, notwithstanding the importunities of counsel, I cannot speak except by enlarging this address to the dimensions of a text book.

If I have made myself clear throughout, you will doubtless agree with those living in Colorado, that they now have every reason to rely upon the rule of *stare decisis* as settling forever all questions concerning the right to divert the waters of the streams heading in our own mountains, flowing through our own land—to use them in the building up of our own state.

Little was it thought a few years ago that it could ever be contended that the Big Laramie River, which heads in Colorado and flows into Wyoming, was diverted and used in the former by the revocable consent of the latter; or that the Platte River, rising in this state and flowing into Nebraska, was diverted and used in the former by the revocable consent of the latter; or that the waters of the Rio Grande, also heading in Colorado and flowing into New Mexico, were used in the former by the consent of the latter; or that the waters of the Arkansas River, rising in Colorado and flowing into Kansas, could be used in Colorado only so long as Kansas chose to permit it. If such be the case, all that you see of lawns, fields and orchards, exist by the grace of our adjoining and sister states, and the independence of Colorado and its

sovereignty within its own domains is a myth. This great fabric of intermingled law and labor is, we are sorry to say, in the judgment of the Kansas Legislature and her Attorney General, a house of cards. Our sister state has recently applied to the Supreme Court of the United States for relief from the courage, skill and enterprise of Colorado in reclaiming the desert lands of the Arkansas Valley and causing the same to produce the succulent alfalfa, the prolific sugar beet and the luscious Rocky Ford melon. In other words: Kansas says the owners of lands along the Arkansas River in that state are riparian proprietors, and that in permitting the diversion of the waters of that stream in this state for irrigation purposes, the state of Colorado is violating their common law right to have the water flow *ut currere solebat*; all of which leads us once more to inquire: What is the matter with Kansas?—an inquiry particularly apt in view of the legislation of that state which authorizes the diversion of water for irrigation, and the very recent decision of the Supreme Court which holds the principles of irrigation to be so far applicable as to authorize a condemnation of land for ditch purposes. I think it may be safely assumed that the only result of this assault upon the doctrine of title by appropriation to beneficial uses, will be its final and complete establishment by the judgment of the Supreme Court of the United States as the great law of arid America, and that no land in Colorado or elsewhere will, as President Woodruff says would be the case without water, become as barren as in 1847.

**REPORT**  
**OF THE**  
**COMMITTEE ON JUDICIAL ADMINISTRATION AND**  
**REMEDIAL PROCEDURE.**

*To the American Bar Association :*

Your Committee on Judicial Administration and Remedial Procedure beg leave to report :

That nothing was referred to your committee, and the committee has thought of nothing requiring action by them, and so report.

A. J. MCCRARY,  
*Chairman.*

REPORT  
OF  
COMMITTEE ON LEGAL EDUCATION AND ADMISSION  
TO THE BAR.

*To the American Bar Association :*

The Committee on Legal Education and Admission to the Bar have the honor to submit the following report :

As this is the first year of the new century, it may be of interest to members of this Association to recall that one hundred years ago there was not a law school in the United States which conferred degrees.

A professorship in English law was established at William and Mary College in Virginia as early as 1782, and one in 1790 at the College of Philadelphia. At the institution last mentioned, Mr. Justice Wilson, of the Supreme Court of the United States, was appointed to the Chair. His introductory lecture was delivered on December 15, 1790. The lecture was given in the presence of the President of the United States and his Cabinet, Philadelphia then being the seat of government. Members of Congress were also present, as well as the Governor and the Legislature of Pennsylvania. Although these lectures were commenced under brilliant auspices, they were not continued beyond that college year. No further attempt was made to give instruction in law in the University of Pennsylvania, into which the College of Philadelphia had been merged, until 1817, when lectures were again delivered for a year. At the end of that time the matter was again dropped and not again renewed in that institution until 1850.

Chancellor Kent, in 1793, was appointed a professor of law in Columbia College. His first lectures were delivered in 1794 and to a very small class. He lectured again in 1795, but delivered none in 1796. Lectures were delivered in 1797,

but the class was so small that he resigned in 1798. Again, in 1823, he delivered lectures upon law for a time in that institution to such students as chose to listen to them. No examinations on his lectures were held, and no degrees in law conferred. No regular law course was prescribed, and no department of law was established in that university until 1858. Prior to that time there seems to have been no law school in the City of New York.

The first regular law school in the United States was the famous school at Litchfield, Connecticut, established in 1784. That school was founded by Tapping Reeve, the author of the treatise on Domestic Relations. Afterwards he associated with him in this school James Gould, the author of the work on Pleading. The school ceased to exist in 1833, after a life of fifty years. The number of students on its rolls during this entire period of its existence exceeded a thousand, and in 1813 it had as many as fifty students in attendance. The school, however, granted no degrees. There was also a school at Northampton, Massachusetts, founded in 1823 by Judge Samuel Howe. It was discontinued in 1829. Its attendance was small.

The Harvard Law School is the oldest existing law school in the United States, and its history begins with the year 1817. The Yale Law School was established a few years later, in 1824. A law school was established at Cincinnati in 1833; one at Louisville, Kentucky, in 1846, and one at Lebanon, Tennessee, in 1847. The number of law schools in this country was, therefore, very small prior to 1850.

The number of students in attendance at law schools has increased to such an extent as to have become matter of general comment throughout the profession. The number in the law schools in 1870 was 1,653; in 1880, 3,134; in 1890, 4,518; and in 1900 about 13,037. This is a remarkable increase, and much greater than has occurred in theology or medicine. Statistics gathered by the United States Bureau of Education show that, great as this increase is, there has been a

much greater increase in the number enrolled in the dental schools of the country. From 1875 to 1899, the number of students enrolled in the professional schools of the United States increased as follows: In theology, 58 per cent; in medicine, 177 per cent; in pharmacy, 285 per cent; in law, 343 per cent; in dentistry, 1468 per cent. It will be observed, however, that the gain has been more than 100 per cent. greater in law than it is in medicine. This may be explained, in part at least, by the fact that legislation and the regulations adopted by State Boards of Health have practically made it necessary for some years that all students of medicine intending to practice as physicians should pursue their studies in some medical school. Legislation, on the other hand, has not forced students of law into the law schools, so that there has always been a very large number of such students outside the schools. This number undoubtedly has been steadily decreasing, at least relatively, within the period covered by the statistics. Students now enter the schools who formerly carried on their studies in the offices. The medical schools, for the reason already stated, have had no such source of supply to draw from.

There are several reasons why the students of law are going to the law schools in preference to the offices. The conviction has been growing for years that the place to study law is in a school of law. This Association has again and again expressed its conviction to that effect, and its action upon the subject has made an impression upon those intending to enter the profession. Then, too, the schools, as will presently appear, have greatly increased in number. They now exist in all parts of the country, and almost every large city has its own school, so that much less difficulty is experienced in attending a law school than formerly.

Some years ago the Committee on Legal Education expressed the opinion that there should be a law school in each state in the Union. That condition of affairs has not yet been attained, although there are now few states in which such a

school is not to be found. The only states still without a school are the following: Delaware, Idaho, Montana, Nevada, New Hampshire, New Jersey, South Dakota, Utah, Vermont and Wyoming—ten in all.

The increase in the number of law schools in the United States is quite as remarkable as the increase in the number of students. The number of the schools in 1870 was 28; in 1880, 48; in 1890, 54; and in 1901, 100. In 1899 there were in the United States 163 schools of theology; 151 schools of medicine, of which 122 were "regular;" 50 schools of dentistry; and 51 of pharmacy. As compared with the medical schools, the number of law schools is slightly less in proportion to the total number of students in attendance.

Another cause contributing largely to the increase of the number of law schools and the students in them is the fact that there has, of late, been a decided popular demand for instruction in law. The extended character and complexity of modern business is such that the lawyer has played a much more important part in the administration of business affairs than formerly. It has been frequently said of late years that the most profitable business in the profession has been advising clients, and that some of the largest incomes are made by lawyers who are never seen in court. The creation of large industrial, commercial and financial institutions, with numerous transactions, extending over many states and foreign countries, has required for their success such an extended knowledge of law, as to require the services of those specially trained. Moreover, the training of the lawyer has been found to be an admirable preparation for commercial life. The appreciation of these facts has led many persons to enter the law schools. It is probable that many of the students in the schools at present do not intend to practise law, their course in the law school being intended merely to acquire a training and knowledge useful to them in some other occupation. Other evidences of the popular demand for instruction in law will be found in the popularity of the courses in public law, and the

history of law and institutions, which have been provided for in many of the colleges and universities, and in lectures on law which appear to be an established part of the curriculum of the commercial college.

The schools which have established a three years course for the degree of Bachelor of Laws are: Yale, Harvard, Columbia, Cornell, Boston, Pennsylvania, Columbian University (Washington, D. C.), Georgetown University, Catholic University of America, Washington College of Law (Washington, D. C.), Northwestern, Syracuse University, the state universities of Michigan, Illinois, Iowa, Indiana, Minnesota, Colorado, Wisconsin, Kansas, Maine, Maryland, Missouri and Ohio, Baltimore Law School, Baltimore University, Detroit College of Law, St. Paul College of Law, Howard University, University of Cincinnati, Western Reserve University, Cleveland Law School, Denver Law School, Illinois Wesleyan University, Hastings College of Law (San Francisco), Kent College of Law (Chicago), Chicago Law School, John Marshall Law School (Chicago), Illinois College of Law, Iowa College of Law, Highland Park College of Law (Iowa), Austin College of Law (Minnesota), Benton College of Law (St. Louis), Ohio Normal University, National Normal University (Ohio), Dickinson College of Law (Pennsylvania), Pittsburg Law School, and Rhode Island Law School.

In 1890 only eight schools had a three years course for the Bachelor's degree. The advance which has been made since that time is phenomenal and must be very gratifying to the profession.

The schools that still retain the two years course are: The Albany Law School, Vanderbilt University, the University of North Carolina, New York University, New York Law School, Buffalo Law School, the University of Alabama, University of Arkansas, Los Angeles Law School, John B. Stetson University, University of Georgia, National University, Northern Illinois College of Law, Indiana Law School, University of Notre Dame, Northern Indiana Law School, Indianapolis Col-



lege of Law, Central Normal College of Law, Marion (Indiana) Law School, State Normal College of Law (Indiana), Louisville Law School, Center College (Kentucky), Central University of Kentucky, University of Mississippi, Millsaps College of Law (Mississippi), Kansas City Law School, St. Louis Law School, Missouri College of Law, University of Nebraska, Western Law School (Omaha), Wake Forest College (North Carolina), University of North Dakota, University of Oregon, University of Tennessee, University of the South (Tennessee), Southern College of Law (Tennessee), University of Texas, Washington and Lee University, the University of Virginia, Richmond College (Virginia), the University of Washington, the University of West Virginia, and the Milwaukee (Wisconsin) Law School.

The following schools have only a one year course: Mercer University (Georgia), Tulane University (Louisiana), Cumberland University (Tennessee), Southwestern Baptist University (Tennessee), and Southern Normal University (Tennessee).

The Committee cannot but deplore greatly that any law schools in the United States still consent to confer the degree of Bachelor of Laws upon the completion of a one year course of study. A degree so obtained can have very little value, and it is strange that institutions will grant degrees upon such easy conditions. It is, in the opinion of the Committee, an abuse of the degree-conferring power, which calls for and should receive the condemnation, not alone of academic bodies, but of the profession and of public opinion generally.

Harvard University some years ago established a rule which practically requires candidates for its degree in law to have previously obtained an academic degree. Persons who have not a college degree are, in exceptional cases, admitted as special students, but when so admitted cannot obtain a degree unless they obtain, upon examination, a mark within five per cent. of that demanded for the honor degree. That this rule is strictly enforced may be inferred from the fact that the cir-

cular of the school, issued for 1900-01, shows only seventeen non-graduates enrolled in a total attendance of 616 students.

Columbia University has given notice that, beginning with the academic year 1903-1904, no person will be admitted to its law school except graduates of colleges and scientific schools in good standing, or persons presenting satisfactory evidence of equivalent training. Its announcement for 1900-01 shows an attendance of 236 graduates out of a total enrollment of 380. The effect of this action by Columbia will be awaited with interest.

Yale University has advanced its requirements but does not as yet require an academic degree. A student, to be admitted, must be able to pass an examination equivalent to that required for admission to its scientific school.

A number of the schools now require as a condition of admission that the student shall pass a satisfactory examination in subjects that are the equivalent of a high school course.

This requirement is made by Michigan University, the University of Pennsylvania, Northwestern University, University of Wisconsin, the New York Law School, New York University, University of Nebraska, University of Colorado, Denver Law School, University of Ohio, Columbian University, Syracuse University, University of Illinois, Cornell University, Indiana University, St. Louis Law School, Albany Law School, the University of Maine, and the University of Minnesota.

Other law schools, undoubtedly, make a similar requirement. The Committee has not attempted to make a complete showing as to the actual requirements of all the schools, and if it had attempted the task it could not have satisfactorily performed it, because of the indefinite and uncertain statements made by many of the schools in their published circulars. But the Committee has enough information before it to justify the statement that the schools have made, within the past five years, a great advance in the standards they prescribe for the admission of students to the law classes. It is, however,

unfortunately the case that many of the schools still lag behind, and continue to admit students whose preliminary education falls short of being sufficient to justify their admission to their classes. Some of the circulars which the schools put forth declare: "No entrance examination is required." Others say: "No examination is required on entering the school, or at the beginning of the course. Applicants for admission, however, must have at least a good common school education in order to pursue their studies with profit to themselves." Schools that continue such low requirements cannot long expect to retain, if they now possess, the confidence of the profession.

While the Committee think the progress made in the past ten years is very gratifying, it may be remarked that there are some changes still to be desired before legal education can be considered to be on an equality with the training in the colleges and medical schools.

During the past ten years, a number of schools have extended their course from one to two years, and a greater number from two to three years. Some schools have established post-graduate courses, but it may be observed that the progress which has been made has been chiefly in the direction of longer periods of study with more extended courses, generally in private law. In other respects, the improvement has not been so marked. The number of hours of class-room work per week, required in most of the schools, is still much less than that required in colleges and technological schools and in the medical schools. The minimum ordinarily required in colleges is fifteen hours class-room work for each student per week.

Few of the law schools, even the best, have reached this standard. Until recently six hours was the maximum in many important schools, and your Committee believe that this was greater than the average.

There does not appear to be any uniformity in the schools in the amount of class-room work required. Your Committee was informed that some of the three-year schools require only

six hours per week of each student, while some of the two-year schools require as much as thirteen hours per week.

The Constitution of the Association of American Law Schools, organized during the meeting of this Association at Saratoga, last year, requires, as a condition of membership, that a law school applying should require at least ten hours of class-room work per week. This is a gratifying advance. In view of the fact that the law students are older, with more mature, and as a rule, better trained minds than the students of the colleges, your Committee are of opinion that law students are capable of undertaking and that the schools should require at least as much work per week from each student as is required by the colleges.

While some progress has been made in the requirements for admission to the schools, yet the progress has not been as great as in other directions.

The Constitution of the Association of American Law Schools provides that any school, to become a member, shall require of a candidate for its degree, the completion of a high-school course of study, or its equivalent. The equivalent may be determined by the law school faculty upon certificates issued under public authority or by the authority of an institution of advanced learning. In the absence of this, the applicant should be required to pass an examination in studies equivalent to those required of high-school graduates, provided that this requirement shall not take effect until September, 1901.

High schools differ in different parts of the country, and there is consequently no uniform standard for the whole country, but this is the most decided step which has yet been taken with a view of securing adequate preliminary training.

One of the most conservative influences in legal education is the fact that many of the schools are conducted for profit. The school is the property of the faculty, who pay the expenses and divide the profits in some agreed proportion. It is easy to see that any action which leads to an increase in the length of the course of study will appeal to the self-interest of the

proprietors of the schools, inasmuch as the fees of the students will be paid for a longer period. For the same reason, any action which leads to the decrease in the number of students will be received with disfavor. Higher standards of admission to the school will result in a smaller number of students. An increased number of hours of class-room work means more work for the instructors. The changes mean for the instructors more work and less pay. This would hardly meet the approval of the owners of schools which are run primarily for the profit of the instructors.

Your Committee is of opinion that it would be the best interest of the profession if this powerful influence in favor of low standards and little work in the schools could be removed.

The instructor should receive a fixed salary. Your Committee are of opinion that greater progress would be made when, after the payment of fair salaries, the excess of the revenue of the schools shall be appropriated to the uses of the library, buildings or in such other ways as shall be needed by the school.

Your Committee has heretofore expressed the opinion that it is not advisable that the diploma of the law schools should admit to the bar. It is illogical and indefensible that law schools which are not in any way subject to the supervision of the courts, should have the power to admit to the bar.

It is not in the real interest of the schools, nor in that of their graduates, that they should be invested with any such power. The exercise of the power by the schools, especially by schools which are conducted for revenue, has been abused again and again by the graduation of men who have not been qualified for admission to the bar. They have advertised the fact that their diploma admitted to the bar, thereby gaining with the public a certain standing to which they have not been entitled upon their merits. The possession by the schools of this power to admit to the bar has served to attract students to their classes who otherwise would have gone to schools where they would have received a thorough training. The Committee

objects to any such prostitution of the power to admit to the bar. That power belongs to the courts and should be exercised by them alone. The validity of laws giving the law schools the power to admit to the bar is doubtful to say the least. It is to be hoped that in the states in which the schools still possess the power to admit to the bar, it will be speedily withdrawn. A law school diploma still admits in the following states: In Alabama, Georgia, Kansas, Louisiana, Michigan, Mississippi, Missouri, Pennsylvania, South Carolina, Tennessee, Texas, West Virginia and Wisconsin.

In what has been said as to admission by diploma, the Committee has had in mind the law schools of state universities as well as those connected with universities under private control, and those having no connection with any university. The practice is alike illogical and indefensible in all cases. Pennsylvania has been included in the above list, notwithstanding the want of a law of uniform operation throughout the state, for the reason that in Philadelphia County the graduates of the Law Department of the University of Pennsylvania are admitted upon diploma. It is not unlikely that the same privilege is granted in the other counties of the state.

In the state of Tennessee, it is provided that any two judges or chancellors, or the faculty of any law school of the state, shall have the power to examine an applicant for admission to the bar, and to grant a license if the examination is deemed satisfactory. This is as justifiable, perhaps, as to provide that a law school diploma shall admit to the bar, but no more so. At the same time it is somewhat novel, to say the least, to grant to a law faculty the same power to examine applicants that is granted to the judges. The power may not be abused in the one case more than in the other, but it is a decided departure from correct principles, and the motive for making it is not easily perceived.

The report which your Committee submitted in 1891 contained a recommendation that the power to admit to the bar should be taken from courts of first instance and lodged in the

courts of last resort, and that the examination of the applicants should be entrusted to a commission, or permanent board, of law examiners, so arranged that only one-half or one-third of its members should be changed at any one time, and composed of lawyers of the highest professional character and thorough learning. We believed that in this way a high, uniform and permanent standard governing admission to the bar could be secured. (See Proceedings for 1890, p 328.) This recommendation met the approval of the Association, and in a number of the states such boards have been established, and have abundantly justified, by the results achieved, the expectations which led to their creation. They have unquestionably elevated the standard of admission and the effect has been most wholesome.

A state board of law examiners is now provided in Colorado, Connecticut, Georgia, Illinois, Iowa, Maine, Maryland, Michigan, Minnesota, Nebraska, New Jersey, New York, Ohio, Rhode Island, Vermont, West Virginia, Wisconsin and Wyoming. The Committee believe that in the states in which such boards have not yet been established, action to that effect will speedily be accomplished, and that members of the Association will work to that end in their respective states.

In West Virginia the members of the faculty of the State University constitute the State Board of Law Examiners.

The main features of the laws of the various states creating boards of law examiners are the same. The board is appointed by the highest appellate court of the state for a fixed term of three or five years, one member going out of office each year. All the students in the state, except possibly in some states graduates of the law schools, are required to pass an examination by the board. The Maryland law, one of the latest to be enacted, contains some features which are new and seem to your committee valuable.

The Act of 1898, Chapter 139, requires that all applications for admission to the bar shall be made by petition to the Court of Appeals. A State Board of Law Examiners is

created, consisting of three members of the bar of at least ten years' standing, to be appointed by the Court of Appeals; to hold office for the term of three years. All applications for admission to the bar shall be referred by the Court of Appeals to the State Board of Law Examiners, who shall examine the applicant touching his qualifications for admission to the bar, and report their proceedings to the Court of Appeals with any recommendations said board may desire to make. If the Court of Appeals then finds the applicant to be qualified to discharge the duties of an attorney, and to be of good moral character, and worthy to be admitted, they shall pass an order admitting him to practice in all the courts of the state. The Court of Appeals shall prescribe rules providing for a uniform system of examinations in the state, which shall govern the board of law examiners in the performance of its duties. The expenses of the board, including such compensation to the members thereof as the Court of Appeals may determine, shall be paid out of the fees of the applicants. No one shall be examined who shall not have studied law in a law school in some part of the United States, or in the office of a member of the bar in Maryland, for at least two years. Any fraudulent act or representation by an applicant, in connection with his application or examination, shall be sufficient cause for the revocation of the order admitting him to practice.

Pursuant to this act, the Court of Appeals adopted the rules which will be found in 88th Maryland Reports, page XXVII. The rules require the petition of the applicant to state his full name, age, residence and place of birth; that the petitioner has studied law in the office of a member of the bar of Maryland, or in a law school of the United States, for at least two years, and that while so studying the law he diligently pursued the course of study prescribed by the Rules, viz., Elementary Law, Contracts, Torts, Wills and the Administration of Estates, Corporations, Evidence, Equity, Real Property, Personal Property, Criminal Law, Domestic Relations, Pleading and Practice at Law and in Equity, Constitutional Law, Inter-



national Law, Legal Ethics. The examination shall be in writing, but the board may, at its election, in addition to the written examination, examine orally any or all of the applicants. The applicants are allowed at least six hours to answer the questions asked.

The Board of Law Examiners shall, as soon as practicable after such examination, report to the Court of Appeals all their proceedings in connection with such examination. They shall file with their report a copy of the questions asked and all the replies and the report shall also state the conclusions of said board as to the qualifications of all applicants and shall recommend, in the case of each person examined, that he be, or be not, admitted to the bar. The names and places of residence of all persons recommended by the board for admission to the bar shall be published once a week for three successive weeks in two daily newspapers published in the city of Baltimore before the day fixed for the ratification of the report of the State Board of Law Examiners. If no exceptions are filed to the report within thirty days after it is filed, the recommendations of the board will be adopted, the action of the board ratified and the applicants admitted or rejected, as recommended by the board. If exceptions are filed, they shall be heard and decided by the court. In case an exception shall be filed to the recommendation of the board that any applicant shall not be admitted to the bar, and the exception relates to the qualification of the applicant to practice law, no new examination will be held, but the exception heard and determined on an examination of the applicant's answers to the questions asked him. If the exception relates to the moral character of the applicant, the exceptant and the applicant shall have the right to produce evidence in support of or against their exceptions before the court or before an examiner appointed for the purpose of taking testimony.

It will be seen that by these rules application for admission to the bar is in the nature of a suit. Notice is given to the world by publication in two daily papers in the city of Balti-

more, which, by reason of the circulation of the papers in the counties, Baltimore being the only large city in the state, is equivalent to notice to all the counties, of the name and place of residence of all applicants.

The constitution of the Maryland State Bar Association requires the Committee on Education of that body to examine into the moral character of all applicants for admission to the bar, and if they find an application to have been made by a person whom they do not deem of good character, they are required to file exceptions to his admission. Your Committee are informed that these rules have worked admirably in practice. Exceptions have been filed in only one case, where the applicant had been a student in a correspondence school of law. The exceptions were not tried, because the petitioner withdrew his application. It is said that the publication of the names, with the right to except to the admission, has been a menace which has deterred a number of unworthy persons from seeking admission. It appears quite certain that the publication of the names and residences of the applicants with the opportunity to present objections to their admission is a valuable feature in practice.

In the report of this Committee already referred to, that for 1891, the Committee also urged the adoption of the following :

*"Resolved, That at least two years of study should be required of every student before he presents himself for examination; and that in the older states, having a more settled and comprehensive jurisprudence of their own, this limit should be extended to three years."*

This recommendation the Association adopted. At that time Connecticut, Delaware, New York, Oregon and Vermont required a three years course of study, and New Jersey four. The Committee finds that since 1891 much has been accomplished in the direction indicated, and it is now urged that renewed effort be made in the states which have not as yet complied with the Association's recommendation.

No particular period of law study is prescribed in the following states and territories :

Alabama, Arkansas, California, Georgia, Idaho, Indiana, Kentucky, Massachusetts, Mississippi, Missouri, Nevada, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Utah, and Virginia—eighteen in all.

A period of one year appears to be nowhere prescribed.

A period of two years is prescribed as follows :

In Colorado, Kansas, Louisiana, Maryland, Montana, Nebraska, New Mexico, North Carolina, North Dakota, Washington, West Virginia and Wisconsin—eleven in all.

A period of three years is prescribed as follows :

In Connecticut, Delaware, District of Columbia, Illinois, Iowa, Maine, Michigan, Minnesota, New Hampshire, New Jersey, New York, Ohio, Oregon, Pennsylvania, Rhode Island, Vermont and Wyoming—eighteen in all.

It will be noticed that in a majority of cases a definite period of study is prescribed, and that in a large majority of the states prescribing a definite period, the time actually prescribed is three years, and not two. The change in Illinois, Iowa, Michigan, Minnesota, Ohio, Oregon, Rhode Island and Wyoming, whereby a three years period has been prescribed, has been made since your Committee submitted its report of 1891. We cannot refrain from again declaring it to be our opinion that it is far better that some definite period should be established in each state, that the period ought not to be less than two years, and that a period of three years is much to be desired. It is best for the candidate, for his clients, and for the profession, that no person should be admitted to practice in the courts until he is qualified to do so. That he cannot become so qualified in one year, or even in two years of study, your Committee is convinced, and thinks the law should so declare.

The Committee find the following requirements established governing admission to the bar :

1. The applicant must be a citizen of the United States, a resident of the state in which he makes his application, twenty-one years of age and of good moral character, in the following states :

Alabama, Arkansas, Colorado, Maine, Michigan, Mississippi, Nebraska, New York, Washington.

2. The applicant must be a citizen of the United States, a resident of the state, and twenty-one years of age, in the following state:

Illinois.

3. The applicant must be a citizen of the United States, twenty-one years of age and of good moral character, in the following states:

Connecticut, Oregon and Pennsylvania.

4. The applicant must be a resident of the state, twenty-one years of age, and of good moral character, in the following states:

Delaware, Iowa, Nevada, North Dakota, South Dakota, Texas, Virginia, West Virginia and Wisconsin.

5. The applicant must be a citizen, or resident who has *bona fide* declared his intention of becoming a citizen, of the age of twenty-one years, and of good moral character, in the following states:

California, Massachusetts, Minnesota and Montana.

6. The applicant must be a citizen of the United States, or have declared his *bona fide* intention of becoming such, twenty-one years of age, and of good moral character, in the following states:

Ohio and Utah.

7. The applicant must be a citizen of the United States or have declared his intention of becoming such, a resident of the state, twenty-one years of age, and of good moral character, in the following state:

Rhode Island.

8. The applicant must be a citizen of the state, twenty-one years of age and of good moral character, in the following states:

Louisiana, New Hampshire and South Carolina.

9. The applicant must be twenty-one years of age and of good moral character, in the following states:

Florida and Tennessee.

10. The applicant must be a citizen of the state and of good moral character, in the following state:

Georgia.

11. The applicant must be a citizen of the United States and a person of good moral character, in:

Kansas.

12. Every voter of good moral character is entitled to practice, in:

Indiana.

13. The applicant must be of good moral character, in:

Maryland.

14. The applicant must be twenty-one years of age and of good moral character, in the following states:

Missouri, New Jersey and North Carolina.

In Kentucky the applicant must be twenty-one years of age and must file with his petition the certificate of the County Court of the county in which he resides, stating that he is a person of honesty, probity and good demeanor.

In the District of Columbia it is required that:

Sec. 1. All applications for admission to the bar shall be made to the court in general term, and any applicant who has been admitted to practice law in the Supreme Court of the United States, or any applicant who has been admitted to practice law in the highest court of any state or territory, while a non-resident of the District of Columbia, may, upon satisfactory evidence of good moral character, and after examination as to fitness, or, in the discretion of the court, without such examination, be admitted to the bar, provided the members of the bar of this court are admitted to the bar of the highest court of such state or territory upon the same terms. No student shall be admitted until after such examination and proof of

good moral character, and that he has studied at least three years under the direction of some competent attorney. Diligent study in any law school shall, to the extent thereof, be computed as part of said three years.

Sec. 2. Each applicant for examination for admission to the bar shall file with the clerk an application in writing, in which he shall state, under oath or affirmation, his name, age and residence; with what attorney he has studied law, or in what law school, and when and for what length of time he has so studied; and also what books he has read. And upon the filling of such application it shall, without further order of the court, be referred to the committee for examination for their action.

The Committee calls attention to the fact that since their last report, several organizations have been created which have grown out of this Association. In 1893 a Section of Legal Education of the American Bar Association was organized pursuant to the XIV By-law of this Association. This Section has been very active and its work has been most creditable and has contributed powerfully to higher legal education. The Section has drawn to its meetings from time to time nearly all the leading law teachers in the United States, and some from Canada. Many thoughtful and able papers on legal education and allied subjects have been read, and the discussions in the Section have been valuable additions to the literature of legal education. In fact, the influence of the Section has not been confined to this country, but has attracted the attention of the authorities of the law schools and universities in Canada, England, France and Ireland.

Your Committee is glad to observe that at the last meeting of this Association, an organization was formed of the State Boards of Law Examiners, by delegates from the various boards. The constitution of this organization and the proceedings of its last meeting will be found on page 576 of the proceedings of this Association for the year 1900.

Another organization which has been recently formed as an

outgrowth of this Association is the Association of American Law Schools, to which reference has already been made. The constitution of this Association will be found on page 571 of the report for 1900. Your Committee is gratified to observe that with very few exceptions all the law schools of the country recognized by the profession as leading institutions, have become members of, and are giving their cordial support to that Association. While the standard of scholarship established for membership is not as high as that recommended by this Association for admission to the bar, yet it is an advance, and is probably as high as many of the schools can attain at present. It is required that to become a member a school shall have a course of study of at least two years, of thirty weeks per year, until 1905, when members shall be required to maintain a three years course. Ten hours per week of class-room work shall be required of each student. Beginning in the fall of 1901 the members shall require that candidates for a degree shall have had a high school education or possess equivalent training. It is required that the student shall have access during all working hours to a library which shall contain at least the reports of the state in which the school is situated and of the United States Supreme Court.

It is hoped that these extremely moderate requirements may soon be advanced. It is certain that the co-operation of the best schools will in this way be productive of much good.

Your Committee is confirmed in its views on the subject by the experience of the medical profession. Prior to 1892 the medical schools, like the law schools, varied much in efficiency. Many were owned by the faculties and were conducted primarily for profit. The rivalries and the struggle for students was great and the standard of many of the schools was low. The course of study in many cases was from one to two years and the degree of M. D. conferred by the schools, as a rule, carried the right to practice medicine. In the year 1892, the Association of American Medical Colleges was formed, the reason for its formation being similiar to those leading to the forma-

tion of American Law School Association. Seventy-three of the one hundred and fifty-one medical colleges of the country are now members of the association. The constitution provides for an annual meeting to be held in connection with the meeting of the American Medical Association, each college being represented by a delegate. Members of the association are required to exact of applicants applying for admission, a preliminary examination, a minimum of which shall include English, arithmetic, algebra, physics and Latin. This examination was dispensed with in the case of graduates of reputable literary institutions, academies and high schools, and also in cases when the applicant produces a medical student's certificate of any state examining board covering the above work. Candidates for the degree of M. D. must attend at least four courses of instruction in a medical college, each course to be of at least six months duration and no two courses to be taken the same year.

Your Committee is informed that this Association is about to increase the conditions for membership by requiring a much higher preliminary training and also establishing a more rigid scrutiny into the schools applying for membership.

Your Committee is informed that the formation of the Association of Medical Colleges, together with the creation of State Boards of Medical Examiners, resulted very quickly in much higher standards of medical education. Another result was that the number of schools decreased and the number of students in the schools was less.

It is said that the four years course of the medical schools would not have been possible without the influence of that Association. Schools which maintained low standards to attract students were forced to elevate them or to go out of existence, as the students deserted many of them. Similar results may be expected of the American Law School Association. Students will naturally wish to attend schools having membership in that Association. A school which will not maintain the moderate standard required for membership may be



pecuniarily profitable to those who conduct it, but is of doubtful use to the public and the profession. An association which has drawn to it most of what is highest and best in legal education in this country, deserves, in the opinion of this Committee, the cordial support of this Association, the profession and the public.

It is an interesting fact that while no part of our institutions have so strong a hold on the respect and confidence of the people as the judiciary, few persons seek to settle their controversies in court. Sacrifices will be made, arbitration resorted to or just claims abandoned by men of affairs rather than engage in law suits. This is not due to lack of confidence in the courts or the bar. No occupation requires a higher standard of character than that of a lawyer. Ability, courage, extensive knowledge, diligence and disinterestedness are so common as to excite no more remark than courage in a soldier. In fact, it is the absence of these qualities which causes surprise and censure. And this is generally appreciated by the laity notwithstanding the jests to which our profession, in common with the clergy and the medical professions, are the subject. Nor is it due to the want of confidence in the substantive law. Numerous transactions of the greatest importance, organizations the magnitude of whose plans surpass the wildest dreams of our ancestors are unhesitatingly entered into when success depends entirely on the protection of the law on which their promotors rely with implicit confidence. The disinclination to engage in suits is due to the procedure. A simple controversy between two persons where the amount is small may be annoying, but is of little importance to either of the parties, but when the few and simple issues of this controversy become involved in numerous other issues arising out of the jurisdiction of courts, forms of actions, the rules of pleadings and practice, the rules of evidence, with bills of exceptions and appeal and possible new trial, with the postponements, the annoyance of frequent attendance in courts, and especially the delay in the ultimate decision, it becomes

a serious and too often a disastrous event in the lives of both parties. An examination of the law reports discloses an amazing number of decisions turning entirely on questions of procedure. Before men of affairs will intrust the courts with the investigation and settlement of their controversies, they must be assured that the controversy will be settled on its merits, quickly and cheaply. Any method for the settlement of disputes, one of the probable results of which is an expense, direct or indirect, greater than the amount involved, is not practicable and will not be resorted to.

Your Committee do not propose to engage in any general discussion of this very difficult subject, but it may be remarked that the most perfect system of procedure which can be devised would be inadequate unless those who administer it are competent to perform the part allotted to them. The training of the lawyer is an essential part of the problem of improved procedure. That the course of training used in the past is inadequate is a fact which no one having any knowledge of the subject will dispute. It is gratifying to observe that the progress which has been made in the last few years has had the cordial support of the bar and the public. There is every reason to believe that greater progress may be expected in the future.

GEORGE M. SHARP,  
HENRY WADE ROGERS,  
HENRY E. DAVIS,  
JOHN M. HARLAN,  
JOHN F. DILLON,  
*Committee.*

REPORT  
OF THE  
COMMITTEE ON COMMERCIAL LAW.

*(To be Presented at the Twenty-fourth Annual Meeting at Denver, Colorado,  
August 22, 1901.)*

*To the American Bar Association :*

Your Committee on Commercial Law begs leave to submit the following report :

At the meeting of the Association in 1900, this Committee submitted a report upon the Bankruptcy Law, in which the Committee asked of the Association :

1. That it ratify and approve the action of the Committee in relation to the Ray Bill and that it formally endorse the Ray Bill and advocate its passage at the next session of Congress.

2. That it approve the following amendments proposed by the National Association of Referees in Bankruptcy :

“1. That, to meet the line of decisions of which *Columbus Electric Co. vs. Worden*, 99 Fed. 400, is typical, section fifty-seven-g (57g) be amended as follows :

“‘g. The claims of creditors who have received preferences *voidable under section 60b*, shall not be allowed, unless such creditor shall surrender such preferences.’

“2. That section 23 and section 2 (7) be modified either by the repeal of section 23b entirely and the elimination from section 2 (7) of the words ‘except as herein otherwise provided’ or by any other proper change, to the end that the Federal courts charged with the administration of the Bankruptcy Law shall have concurrent jurisdiction with the State courts of all controversies between the trustee in bankruptcy and adverse claimants.”

3. That it recommend to Congress an increase in the compensation of referees in bankruptcy.

4. That it recommend to Congress the further amendment of the third section of the Bankruptcy Act by adding to the five acts of bankruptcy already enumerated two additional acts of bankruptcy, as follows:

"Or (6) while insolvent risked his money or estate or any substantial part thereof, or diminished the security of his creditors by

"(a) Gambling, or

"(b) Speculating in any securities or property outside of his ordinary business, or

"(c) So wastefully, recklessly or improvidently managing his business affairs as to do substantial injury to his creditors or imperil the claims of such creditors.

"Or (7) if a corporation paid, while insolvent, extravagant salaries to its officers or employees."

The report of the Committee was ratified and approved, and its recommendations adopted with the exception that for the amendment to Section 57g of the Bankrupt Act recommended by the Committee, the following was substituted:

"57g. Creditors who have received preferences shall not participate in dividends so as to receive by taking such preferences into consideration a greater percentage of their claims than other creditors of the same class."

The Committee was also instructed to urge upon Congress the amendments proposed by it with the exception above quoted.

Your Committee has obeyed the instructions of the Association and has urged upon Congress, personally and in writing, the amendment of the Bankrupt Law as proposed.

No action, however, has been taken by Congress. The last session of Congress was a short session, and its time was very largely occupied with political matters of importance. It was found impracticable to secure any action upon the Bankrupt Law at that session. We hope and believe, however, that, if our work is continued, we shall have better fortune at the next session of Congress when the limitation of time will not be so stringent and when it is not likely that there will be so many

other pressing questions to interfere with work upon the Bankrupt Law.

Meantime, the Supreme Court of the United States has had before it Section 57g of the Act and has given it a definite construction which is familiar to all the members of the Association.

Your Committee have observed with interest and care the workings of the Bankrupt Law during the past year, and their conviction as to the wisdom of the amendments proposed by this Committee and adopted by the Association, is in every way strengthened.

They are still of the opinion as expressed in their former reports:

1. That a Bankrupt Law is wise and beneficent legislation.
2. That the ideal Bankrupt Law is one that
  - (a) Allows every honest debtor to procure a speedy discharge from his obligations upon the surrender of all his property ;
  - (b) Gives every creditor a complete remedy against actual or contemplated fraud on the part of the debtor ;
  - (c) Punishes all fraud on the part of the debtor or creditor with relentless severity.
3. That our present Bankrupt Law, to fulfill these conditions, needs careful and trenchant amendment on the lines that this Association has approved.
4. That the Association should, through its Committee on Commercial Law for the ensuing year, continue its line of work looking to the perfecting of the Bankruptcy Law.

Respectfully submitted.

WALTER S. LOGAN,  
*Chairman,*  
JAMES HAGERMAN,  
HENRY BUDD,  
GARDINER LATHROP.

New York, July 9, 1901.

REPORT  
OF  
COMMITTEE ON INTERNATIONAL LAW.

*To be Presented at the Twenty-fourth Annual Meeting, at Denver, Colorado,  
August 22, 1901.*

*To the American Bar Association :*

The Committee on International Law respectfully reports as follows :

Your Committee was instructed at the last meeting of the Association to continue the discharge of the duties committed to it by the Association in 1899, in reference to the Convention for the Peaceful Adjustment of International Differences, which had been adopted at the Hague Congress. In compliance with this instruction, we respectfully report :

1. Ratifications by all the signatory governments of this Convention have been deposited with the Government of the Netherlands, except those of China, Luxemburg and Turkey.

2. Judges of the International Court of Arbitration provided for by that Convention have been appointed by the following countries :

Austria-Hungary, Belgium, Denmark, France, Germany, Great Britain, Italy, Japan, Netherlands, Portugal, Roumania, Russia, Servia, Siam, Spain, Sweden and Norway, Switzerland and the United States.

3. Rules relating to the organization of Internal Conventions of the International Arbitration Bureau of the permanent Court of Arbitration have been adopted, as follows :

ARTICLE I.

The Secretary General of the permanent Court of Arbitration shall exercise the functions of the Chief of the Inter-

national Bureau and, under the same title, those of Recorder of the Court.

He shall have the care of all the correspondence of the Bureau.

He shall annually submit the budget of receipts and expenditures of the Bureau which he shall lay before the Administrative Council for their examination and approval. He shall act in the same manner with regard to the settlement of the annual accounts of the Bureau, and in accordance with the order of the budget.

He shall have the direction of all the staff of the Bureau.

#### ARTICLE II.

The staff of the Bureau shall consist of:

- A first Secretary ;
- A second Secretary ;
- One Clerk ;
- One care-taker ;
- One messenger.

#### ARTICLE III.

The work of the Bureau shall be entirely under the authority of the Secretary General.

#### ARTICLE IV.

In case of leave of absence or prevention, the Secretary General shall be represented by the first Secretary.

#### ARTICLE V.

The staff of the International Bureau are forbidden to make known to strangers to the Bureau any communications, verbal or written, with regard to the affairs of the work entrusted to them, or to permit them to gain any knowledge from the documents relating to the work of the Bureau.

It is therefore apparent that this great International tribunal is ready for business. It will be remembered that under the provisions of the Arbitration treaty, of which a copy will be found in the Report of this Association for the year 1899, pages 439 to 451, no further treaty or agreement is necessary in

order to enable any of the powers who have become parties to this Convention to take advantage of its provisions. Each party is entitled to name from among the Judges already selected, two arbitrators, and these shall choose an umpire. Provision is made for the selection of an umpire if the arbitrators do not agree. The tribunal shall ordinarily sit at the Hague. Parties are entitled to counsel before the Court. Provision is made for the taking and submission of evidence, and for a hearing after the evidence is closed.

In short, so far as the hearing and decision of causes is concerned, this International Court has much the same powers as the Supreme Court of the United States. The enforcement of these decisions is left to the good faith of the parties.

The Committee congratulates the Association upon the part it has taken in bringing about so notable a result. When Lord Chief Justice Russell delivered his address before this Association, at Saratoga, in 1896, he said that "the question of the constitution of a permanent tribunal is not ripe for practical discussion." He urged the importance of such a tribunal. He stated clearly and forcibly the considerations which should induce the powers to agree upon its establishment. It could hardly at that time have been expected that in three years a Convention would be signed by all the great powers of the world providing for the constitution of such a permanent tribunal. Since 1896 the Association has not ceased to urge upon the Executive of the United States and upon the Senate, the feasibility and desirability of the establishment of such a court. And we believe that as soon as a beginning is made, and the nations of the world find how simple and adequate is the provision made by the Convention, the tribunal will not lack business. It will be remembered that when the Supreme Court of the United States first convened, no causes were ripe for a hearing before that great tribunal. It is not surprising that the same may now be said of this International Court, which may justly be called in a very real sense, the Supreme Court of the world.



We cannot close this report without expressing the great regret which the Committee, in common with the people of the United States, feels at the recent death of one of its members, Benjamin Harrison, who after honorable and distinguished service as President of the United States, returned to the Bar and resumed that leading place among his brethren which will make him to be remembered in forensic history no less than his Administration will be remembered in that of the nation.

All of which is respectfully submitted.

EVERETT P. WHEELER,  
RICH'D. M. VENABLE,  
JOHN BASSETT MOORE.

August 20, 1901.

# REPORT

## OF THE

### COMMITTEE ON OBITUARIES.

The Committee on Obituaries announce the names of members who have died since the last meeting, as follows, viz :

#### ARIZONA.

WRIGHT, CHARLES W., . . . . . Tucson.

#### ARKANSAS.

COCKRILL, STERLING R., . . . . . Little Rock.

#### ILLINOIS.

CRAWFORD, ANDREW, . . . . . Chicago.

#### INDIAN TERRITORY.

BURCKHALTER, JAMES B., . . . . . Vinita.

#### INDIANA.

FISHBACK, W. P., . . . . . Indianapolis.

HARRISON, BENJAMIN, . . . . . Indianapolis.

#### MAINE.

\*HASKELL, THOMAS H., . . . . . Portland.

#### MARYLAND.

MASON, R., JOHN T., . . . . . Baltimore.

WILMER, SKIPWITH, . . . . . Baltimore.

#### MINNESOTA.

KITCHEL, STANLEY R., . . . . . Minneapolis.

#### MONTANA.

CORBETT, FRANK E., . . . . . Butte.

#### NEW HAMPSHIRE.

\*BINGHAM, HARRY, . . . . . Littleton.

#### NEW JERSEY.

\*BUCHANAN, JAMES, . . . . . Trenton.

MCCARTER, THOMAS N., . . . . . Newark.

## NEW MEXICO.

\*WARREN, HENRY L., . . . . . Albuquerque.

## NEW YORK.

BEAMAN, CHARLES C., . . . . . New York.

BULLARD, E. F., . . . . . New York.

EVARTS, WILLIAM M., . . . . . New York.

PEABODY, CHARLES A., . . . . . New York.

SMITH, JOHN SABINE, . . . . . New York.

## OHIO.

HERRICK, G. E., . . . . . Cleveland.

## PENNSYLVANIA.

ALLISON, EDWARD P., . . . . . Philadelphia.

HEIGES, GEORGE W., . . . . . York.

LAMBERTON, WILLIAM B., . . . . . Harrisburg.

\*SEAGLE, JACOB F., . . . . . Pittsburg.

## RHODE ISLAND.

MCGUINNESS, EDWIN D., . . . . . Providence.

## VERMONT.

WILDS, CHARLES M., . . . . . Middlebury.

## VIRGINIA.

\*HENRY, WILLIAM WIRT, . . . . . Richmond.

## WISCONSIN.

\*FISH, JOHN T., . . . . . Milwaukee.

\*JOHNSON, D. H., . . . . . Milwaukee.

## WYOMING.

FOWLER, BENJAMIN F., . . . . . Cheyenne.

JOHN HINKLEY,  
E. M. BARTLETT,  
*Committee.*

Denver, Colorado, August 21, 1901.

NOTE.—This report includes those members of whose death the Committee have been informed up to August 21, 1901. Obituary notices (including some members not in the above report) will be found near the end of this volume.

\*Obituary notice published in the 1900 report.

## REPORT

OF THE

### COMMITTEE ON LAW REPORTING AND DIGESTING.

It is one of the duties of the Committee on Law Reporting and Digesting to furnish information as well as to make suggestions with regard to the reporting or digesting of legal decisions. In our report two years ago we gave a list of the digests which had been published since the meeting of the year before, and we have now prepared a list of those that have appeared since that report was read.

They are as follows :

CALIFORNIA: Deering, Vol 5, Supplement, 1900, embracing Vols. 112 to 125 California Reports, Bancroft Whitney & Co., San Francisco.

COLORADO: J. Warner Mills, 2 Vols., 1901, The Mills Publishing Co., Denver.

CONNECTICUT: Simeon E. Baldwin's Digest, edited by George E. Beers, 1900, 2 Vols., Dissell Publishing Co., Hartford.

DISTRICT OF COLUMBIA: C. P. Maupin, 1 Vol., 1900, Bar Association of the District of Columbia, Washington, D. C.

GEORGIA: Howard Van Epps and J. W. Aiken, 3 Vols., 1899, Marshall, Bruce & Co., Nashville.

KANSAS: Daniel M. Valentine, 2 Vols., 1899, Bowen, Merrill & Co., Indianapolis and Kansas.

MARYLAND: W. T. Brantly, Supplement, 1900, H. B. Scrimger, Baltimore. Maryland Citations, H. Oliver Thompson, 1900, W. J. C. Dulany Co., Baltimore.

MASSACHUSETTS: Index Digest, W. V. Kellen and J. P. Parmenter, 1889, Little, Brown & Co., Boston.

MICHIGAN: A. P. Jacobs, and Chaney, Vol. 4, 1900, Callaghan & Co., Chicago.

MISSOURI: E. W. Patteson, Vol. 4, 1899, Vol. 5, 1900, Gilbert Book Co., St. Louis.

MONTANA: E. L. Bishop, 1 Vol., 1899, J. B. Lyon & Co., Albany, N. Y.; Northwest Digest, by W. S. Church, 2 Vols., 1899.

NEW JERSEY: Citations, J. A. Bradley, 1899, Soney & Sage, Newark.

NEW MEXICO: Index Digest, 9 Vols, 1901, 1852 to 1899, Opter Job Rooms, Las Vegas.

NEW YORK: Abbott's Cyclopedic Digest, West and Blashfield, 1794 to 1900, Vols. 1 to 5, 1901, Baker, Voorhees & Co., New York. Brightly, Vol. 5, 1899, Banks & Co., New York. Index Digest of the Court of Appeals, Colon P. Campbell, 1901, 1847 to 1901, Matthew P. Bender, Albany. Gibbon, 1900, Annual, 2 Vols., 1899, 1900, Lyon & Co., Albany. Abbott, Annual, 2 Vols., 1899, 1900, Baker, Voorhees & Co., New York.

NORTH AND SOUTH DAKOTA: Index Digest, N. G. Tilton, 1900, 1 Vol., 1900, Watters Brothers, Sioux City.

OHIO: Citations, J. W. Thompson, 1900, Bowen, Merrill & Co., Indianapolis.

PENNSYLVANIA: Digest of Decisions and Encyclopedia of Pennsylvania Law, by George Wharton Pepper and William Draper Lewis, 1754 to 1898, Vols. 1 to 10, 1898 to 1901, Rees Welsh & Co., Philadelphia; Index Digest, William Draper Lewis, Vols. 4 to 5, 1899, Vol. 6, 1900, Vols. 7 and 8, 1901, Philadelphia; Annual, J. Monaghan, 1900, Soney & Sage, Newark, New Jersey.

RHODE ISLAND: Digest of Decisions, Stiness, Published by the State, 1901.

SOUTH CAROLINA: T. S. Moorman, 1899, Bryan Printing Co., Columbia.

TEXAS: Criminal Cases, Julius H. Hayward, 1899, Bryan Printing Co., Columbia; C. M. Buckler, Gammel Book Co.;

Supplement to Sayles Civil Digest, J. H. McMillan, 2 Vols., 1900, Gilbert Book Co., Austin.

TENNESSEE: Webb & Meigs, Vols. 1, 2 and 3, 1899, F. H. Thomas, St. Louis, Mo.

VIRGINIA: Hurst & Brown, Vol. 4, 1900, S. M. Hurst, Vol. 5, 1900, S. M. Hurst, Vol. 5, 1901, Hurst & Co., Pulaski City, Va.; Criminal Digest, 1 Vol., S. M. Hurst, 1900, Hurst & Co., Pulaski City, Va.

WASHINGTON: Dennis, Menkus & Dennis, 1900, Pigott & French Co., Seattle, Washington; Northwest Digest, W. S. Church, 2 Vols., 1899, 1900.

WASHINGTON, D. C.: Bi-Monthly Digest Department and U. S. Courts, Gourich, Vols. 11 and 12, 1899, 1900.

WEST VIRGINIA: Hurst Criminal Cases, Hurst & Co., 1900, Pulaski City.

UNITED STATES: Federal Reporter Digest, 4 Vols., 1880 to 1900, West Publishing Co., St. Paul, Minn.; United States Supreme Court, Russel & Winslow, 1794 to 1899, 2 Vols., Banks & Co., New York; Circuit Court of Appeals, Lawyers' Coöperative Publishing Co., 1 Vol., 1891 to 1899, Rochester, N. Y.

ALL THE STATES AND THE FEDERAL COURTS: Century Digest, from the earliest times to 1896, Vols. 1 to 25, 1897 to 1901; American Digest Annuals, 1899a, 1899b, 1900a, 1900b, 1901a, General Digest, 1899, 1900, 1901; Special Digest Insurance and Mutual Benefit Societies, Berryman, Vols. 3 and 4, 1901, Callaghan & Co.; Chicago Patent Office Decisions; Lepine Hall, 1890 to 1900, George B. Reed, Boston; Patents, Trade-Marks, etc., Louis M. Saunders, Annual, 1900, John Byrne & Co., Washington.

ENGLAND: Mews, Annual, 1899 and 1900, Sweet & Maxwell and Stevens & Sons, Limited; Edward Beal, Annual, Butterworth & Co.; Current Index of Law Reports, 1899, 1900, William Clowes & Sons.

SCOTLAND: Sandman, 1895 to 1899.

IRELAND: Stubbs, 1894 to 1898.

CANADA: Coutlee, 1893 to 1898; Masters & Morse, Annual, 1900.

QUEBEC: Snow, LaFleur & MacDougal, 1899.

MANITOBA: Ewart, 1875 to 1899.

AUSTRALIA: Torrens, 1860 to 1898.

The rapid increase in the volume of the reported decisions is suggested by the fact that the annual digest of the National Reporter System now consists of two great volumes instead of one, and the volume of the reporters as well as of the official state reports are coming with growing rapidity. The time will soon come when the necessity for lessening the volume of reported cases will compel the profession to insist upon and the publishers to adopt some means of accomplishing this result. We have discussed the subject in former reports and will not add anything now, except to say that we propose to ask the Bar Associations of the several States to enquire and report to us what measures they think it well to take to regulate the reporting of decisions of the courts, with a view to avoiding the publication of decisions of no public interest, and at the same time to secure the publication of all cases that affect the development of the law.

There is some relief in the fact that the very numerous decisions are being made easily accessible by comprehensive digests and by encyclopedias or abridgements of the law, although even these are growing cumbrous with supplements and new editions. The encyclopedias are but a new form of the old abridgements that were begun by Brooke and continued by Rolle, Comyns, Viner, Bacon and Petersdorff in England, and by Dane in America.

The modern works lack the brevity and terseness of those old abridgements, but on the other hand they state the substance of many cases in a single sentence instead of giving a brief abstract of every case. The encyclopedia plan has been adopted in England, as well as in this country, and there is an Encyclopedia of the English law, as well as the American English and Encyclopedia of Law.

The principle of the encyclopedia is applied in the recent digests of two large states, New York and Pennsylvania, Pepper & Lewis' digest of the Pennsylvania reports is entitled an Encyclopedia of the Law of that state, and the new edition of Abbott's Digest of New York reports, edited by Mr. West and Mr. Blashfield, contains a brief statement in narrative form of the points decided by the cases digested under each division and sub-division.

The law of the old cases is restated in the new ones and there are questions on which there is seldom any need to go back of the later cases in which a long discussion is summed up and disposed of, but the very fact of the multiplicity of the recent cases in this country leads men to seek the common ground of the early cases in England and America, and after many reprints and condensations of the English reports, there is now appearing a new set which is a complete reprint of all the English reports, several volumes in one at a price far below that of the original reports, and there are also reprints of the reports of some of the older states.

The series of Ruling English Cases with references to American decisions is now nearly completed. This is arranged in alphabetical order like an encyclopedia, but the discussion of each topic is found in the case which has given formal direction to the law of that subject.

The increase in the number of reports makes the cost of the volume a matter of serious importance to the profession. On this point we are not prepared to say whether the cost of the state reports generally could be diminished, but we may call attention to the fact that the New York reports, such of them as are prepared and published by the State, are now sold at one dollar a volume, and we suggest that the reports of the Supreme Court of the United States, which are common to the whole country and much in demand, might be prepared and published by the government and sold for very much less than we are now compelled to pay for them, and that with



proper effort they could be issued promptly and all private reports of the same cases could be dispensed with.

Your Committee propose next year to ascertain and report the price of the reports of every state, with a view to comparison, and to suggestion of the best means of reducing the cost of the reports to the profession.

EDWARD Q. KEASBEY,  
CHARLES M. CAMPBELL,  
J. W. BRECKENRIDGE,  
WILLIAM T. BRANTLY,  
*Committee.*

**REPORT**  
**OF THE**  
**COMMITTEE ON UNIFORM STATE LAWS.**

AUGUST 22, 1901.

*To the American Bar Association :*

Your Committee on Uniform State Laws has little new to report. Pennsylvania during the past year has passed an act creating a Board of Commissioners on Uniform State Laws in that state, and after very thorough investigation of the Negotiable Instrument Law by a committee appointed for that purpose, has passed the law without any change in its phraseology. The act was also passed during the last winter in Arizona. It is now the law of seventeen states and territories besides the District of Columbia.

The National Conference of Commissioners on Uniform State Laws, which held its session for 1901 on the 19th and 20th days of August, discussed and recommended for adoption the following laws on insurance :

**AN ACT TO ESTABLISH A LAW UNIFORM WITH THE LAWS  
OF OTHER STATES RELATIVE TO INSURANCE POLICIES.**

**SECTION 1.** No policy of insurance shall be rendered invalid by reason of any statement, representation or warranty made by the insured unless the same shall be material to the risk or made with intent to defraud.

**SECTION 2.** No policy of insurance shall contain any condition, provision or agreement which shall directly or indirectly deprive the insured or the beneficiary of the right to trial by jury on any question of fact arising under said policy, and all such conditions, provisions or agreements shall be void.

**SECTION 3.** This Act shall apply to certificates of fraternal and mutual benefit associations as well as to all other forms of insurance.

**SECTION 4.** All acts and parts of acts inconsistent herewith are hereby repealed.

In view of the many objections to the first section of the law on Divorce Procedure recommended by the conference last year, the law was re-drafted and is now recommended as two separate bills, as follows:

**AN ACT TO ESTABLISH A LAW UNIFORM WITH THE LAW OF OTHER STATES RELATIVE TO MIGRATORY DIVORCE.**

**SECTION 1.** No divorce shall be granted for any cause arising prior to the residence of the complainant or defendant in this state, which was not ground for divorce in the state where the cause arose.

**SECTION 2.** The word "divorce" in this Act shall be deemed to mean divorce from the bond of marriage.

**SECTION 3.** All acts and parts of acts inconsistent herewith are hereby repealed.

**AN ACT TO ESTABLISH A LAW UNIFORM WITH THE LAWS OF OTHER STATES RELATIVE TO DIVORCE PROCEDURE AND DIVORCE FROM THE BONDS OF MARRIAGE.**

**SECTION 1.** No person shall be entitled to a divorce for any cause arising in this state who has not had actual residence in this state for at least one year next before bringing suit for divorce, with a *bona fide* intention of making this state his or her permanent home.

**SECTION 2.** No person shall be entitled to a divorce for any cause arising out of this state unless the complainant or

defendant shall have resided within this state for at least two years next before bringing suit for divorce with a *bona fide* intention of making this state his or her permanent home.

SECTION 3. No person shall be entitled to a divorce unless the defendant shall have been personally served with process, if within the state, or if without the state, shall have had personal notice duly proved and appearing of record, or shall have entered an appearance in the case; but if it shall appear to the satisfaction of the Court that the complainant does not know the address nor the residence of the defendant and has not been able to ascertain either after reasonable and due inquiry and search continued for six months after suit brought, the court or judge in vacation may authorize notice by publication of the pendency of the suit for divorce to be given in manner provided by law.

SECTION 4. No divorce shall be granted solely upon default nor solely upon admissions by the pleadings, nor except upon hearing before the court in open session.

SECTION 5. After divorce either party may marry again, but in cases where notice has been given by publication only, and the defendant has not appeared, no decree or judgment for divorce shall become final or operative until six months after hearing and decision.

SECTION 6. Wherever the word "divorce" occurs in this Act, it shall be deemed to mean divorce from the bond of marriage.

SECTION 7. All acts and parts of acts inconsistent herewith are hereby repealed.

The report of the Committee on Divorce showed that the recent decisions of the Supreme Court of the United States on

that subject indicate that the provisions as to notice on defendant provided in the proposed bill of the conference would be held valid and sufficient in that court to be binding extraterritorially.

The coopération of this Association, both in securing new commissioners and aiding in the passage of the Uniform Laws, is earnestly urged.

LYMAN D. BREWSTER,  
*Chairman.*

## REPORT

OF THE

COMMITTEE ON FEDERAL CODE OF CRIMINAL PROCEDURE.

*To the American Bar Association :*

The Committee on Federal Code of Criminal Procedure begs leave to report that since the appointment by the President, under authority of Congress, of a Commission to revise the Criminal Laws of the United States, the active duties of the Committee have been, in a large degree, restricted, if not altogether suspended, as it has been continued for the sole purpose of coöperating with that Commission in its work. Soon after the appointment of that Commission, the Chairman of this Committee transmitted to the Commission certain materials which had been collected by the Committee, accompanied by a written communication, stating that the Committee would be pleased to coöperate in any way that might be found advisable in the work of the Commission. No reply has been received to that communication, nor has the Commission indicated any desire on its part for the coöperation of this Committee. In view of these facts the expediency of continuing the Committee seems quite doubtful.

CHARLES F. LIBBY,  
*For the Committee.*

**REPORT**  
**OF THE**  
**COMMITTEE ON FEDERAL COURTS.**

*To the American Bar Association :*

The Committee on Federal Courts beg leave to report that the bill relating to Federal Courts, which was prepared by this Committee and embodies the features of its report which received the approval of this Association in 1898, is now pending before Congress, but action on the same has been delayed by a press of other business. It is hoped that the bill will be reached for action at the approaching session. It therefore seems expedient that the Committee should be continued with existing powers, and a resolution to that end accompanies this report.

CHARLES F. LIBBY,  
*For the Committee.*

*Resolved*, That the Committee on Federal Courts be continued for the purpose of securing, if possible, favorable action by Congress on the Bill relating to Federal Courts, which has received the approval of this Association, with the powers heretofore conferred on said Committee.

**REPORT**  
**OF THE**  
**COMMITTEE ON APPEALS FROM ORDERS APPOINTING**  
**RECEIVERS.**

*To the American Bar Association :*

The Committee on Appeals from Orders Appointing Receivers beg leave to report that there has been no change in the situation since the last meeting of the Association. It was not deemed advisable to attempt to obtain the necessary legislation at the short session of Congress.

ROBERT D. BENEDICT,  
A. J. McCraby,  
*Committee.*

July 24, 1901.



**REPORT**  
**OF THE**  
**COMMITTEE ON JOHN MARSHALL DAY.**

*To the American Bar Association :*

The undersigned, who has heretofore acted as Secretary of the committee having in charge the centennial celebration of "John Marshall Day," February 4, 1901, has been officially advised by the Chairman of the committee, Wm. Wirt Howe, that he will not be present on this occasion, and that he desires me to present the report of the committee to the Association, which I now proceed to do.

Reference is herein made to the progress of the national undertaking which finally culminated in one of the most imposing celebrations which has ever been witnessed in the United States. Former reports of this committee, and other proceedings, will be found in the Report for 1899, pages 13, 489, and the Report for 1900, pages 8, 41, 414 and 489.

After the last meeting of this Association, held at Saratoga in August, 1900, the President of the United States made the following allusion to "John Marshall Day" in his annual message to Congress in December, 1900 :

"I transmit to the Congress a resolution adopted at a recent meeting of the American Bar Association concerning the proposed celebration of John Marshall Day, February 4, 1901. Fitting exercises have been arranged, and it is earnestly desired by the committee that the Congress may participate in this movement to honor the memory of the great jurist."

This official recognition of the day gave special prestige to the celebration, and preparations to celebrate the day began all over the United States. The Senate and House of Representatives passed a joint resolution in aid of the action of the District of Columbia Bar Association, as follows :

"WHEREAS the 4th day of February, A. D. 1901, will be generally celebrated throughout the United States as the one hundredth anniversary of the assumption by John Marshall of the office of Chief Justice of the United States; and

WHEREAS it is proposed that Congress shall observe the day by exercises over which the Chief Justice of the United States shall preside, and at which the President shall be present; and

WHEREAS a memorial praying that Congress shall so take part in honoring the memory of this great Chief Justice has been transmitted to the Congress by the President in his last annual message: Therefore

*Resolved* By the Senate (the House of Representatives concurring), that Congress will observe the 4th day of February next, being the one hundredth anniversary of the day when John Marshall became the Chief Justice of the Supreme Court of the United States, by exercises to be held in honor of his memory; and for that purpose a joint committee be appointed by the President of the Senate and the Speaker of the House respectively to arrange said exercises, and the time and place therefor, to be participated in by the President, the Supreme Court, the Congress, and such officers of this Government and foreign governments, such members of the judiciary and of the bar, and such distinguished citizens as may be invited thereto by such committee.

SEC. 2. That the exercises herein provided for shall be held in the Hall of the House of Representatives on said 4th day of February next, beginning at 10 o'clock A. M. and ending at 1 o'clock P. M. That the joint committee herein provided for shall consist of five members, two to be appointed by the President *pro tempore* of the Senate and three by the Speaker of the House of Representatives."

The thanks of the Committee are tendered Senator Lindsay, of Kentucky, and Representative R. Wayne Parker, of New Jersey, without whose efforts this joint resolution would not have been seasonably passed.

Committees were appointed by both Houses and the celebration took place in the House of Representatives in the presence of the President of the United States, the Judges of the Supreme Court, members of the Cabinet, foreign ministers, the House of Representatives, the Senate, which attended in a body, and invited citizens.

The Centennial exercises were opened with an invocation by Rev. Dr. W. Strother Jones, of Trenton, New Jersey, great-grandson of Chief Justice Marshall, who had been specially invited. Some forty-five descendants and collateral relatives of the Chief Justice were also present by special invitation.

The exercises proceeded with an ornate address by Chief Justice Fuller, wherein he spoke of "that breadth of view ; that power of generalization ; that clearness of expression ; that unerring discretion ; that simplicity and strength of character ; that indomitable fortitude ; which, combined in Marshall, enabled him to disclose the working lines of that great republic, whose foundation the men of the Revolution laid in the principles of liberty and self-government, lifting up their hearts in the aspiration that they might never be disturbed, and looking to that future when its lofty towers would rise 'into the midst of sailing birds and silent air.'" \* \* \*

"And so the great Chief Justice, reconciling 'the jealousy of freedom with the independence of the judiciary,' for a third of a century, pursued his stately way, establishing, in the accomplishment of the work given him to do, those sure and solid principles of government on which our constitutional system rests. The nation has entered into his labors, and may well bear witness, as it does to-day, to the immortality of the fame of this 'sweet and virtuous soul,' whose powers were so admirable, and the results of their exercise of such transcendent consequence."

The Centennial oration was delivered by Hon. Wayne MacVeagh of the Philadelphia bar, and he did ample justice to the high theme. He closed his address with the following peroration :

“ In cherishing these aspirations and in striving to realize them, we are wholly in the spirit of the great Chief Justice ; and we can in no other way so effectually honor his memory as by laboring in season and out of season to make this whole continent of America ‘ one vast and splendid monument ; not of oppression and terror, but of wisdom, of peace and of liberty, on which men may gaze with admiration forever.’ ”

The proceedings of the City of Washington Centennial will be found in the Appendix to Volume 180 United States Reports, where will also be found the address of Mr. Justice Gray, of the Supreme Court of the United States, delivered at the request of the Virginia State Bar Association and of the Bar Association of the City of Richmond, on the “ Life, Character and Influence of Chief Justice Marshall,” which has great historical value. He closed his oration as follows :

“ Brethren of the Bar and of the Old Dominion ; Fellow-citizens of the United States : To whatsoever professional duty or public office we may any of us be called, we can find, in the long line of eminent judges with whom Almighty Providence has blessed our race, no higher inspiration, no surer guide, than in the example and in the teachings of John Marshall.”

The proceedings of the day at the National Capitol were followed by a banquet in the evening given at the Arlington Hotel, which proved to be a notable event. It was held under the auspices of the Bar Association of the District of Columbia, and among the guests were included many distinguished jurists. The Chairman of this committee, Mr. William Wirt Howe of New Orleans, as the representative of the American Bar Association, presided ; Mr. Justice Harlan and Mr. Justice Brewer, of the Supreme Court of the United States, occupied seats of honor ; also the various Justices of the Court of Appeals of the District of Columbia and of the Court of Claims, and Attorney General Griggs were present.

Responses to toasts were made by Mr. Justice Harlan, Representative Dalzell, Hon. Martin A. Knapp of the Inter-

State Commerce Commission, Mr. R. Ross Perry of the District Bar, Mr. Henry E. Davis, a member of this Committee for the District of Columbia, and by Mr. Howe. The entire Washington function was of an exalted character, worthy of the day.

Centennial services were held through the agency of the various Bar Associations, and where there were no Bar Associations, through the agency of the Bar, either State, City or County, aided by the courts and some of the Universities.

A few days before the Centennial celebration, the Secretary felt impelled to address a circular letter to the various members of the Committee, which circular letter was as follows :

"1801                      JOHN MARSHALL DAY.                      1901

February 4, 1901.

To the Hon.

The undersigned in his official capacity as the Secretary of the National Committee on 'John Marshall Day,' representing the American Bar Association, is gratified to be able to report the most unqualified success of 'John Marshall Day' in all parts of our great Republic. It is the first instance in the history of our nation in thus honoring the memory of the Great Chief Justice, who, by common consent of history, most profoundly aided the safe establishment of the nation, inwardly and outwardly.

The solidarity of the American Bench and Bar, in one great purpose, has also been established on this historic day, and this purpose emphasizes the resolve of the American people that government by the people shall find its greatest triumph in the principles of enlightenment and justice. American law and order, constitutionally expressed, must remain triumphant in the twentieth century. It will so remain when safely anchored in the great constitutional announcements of Marshall, which gave strength to the nation, without detracting in the least from the powers of the states when exercised in their proper sphere.

Let us on this day be re-dedicated to constitutional liberty of the true American mold, and the educational purpose of 'John Marshall Day' will have been grandly accomplished.

I take the liberty of expressing to you the greeting of the National Committee, and subscribe myself as their Secretary,

ADOLPH MOSES.

“Please bring this note to the attention of your Centennial meetings.”

On the evening of the 3rd of February the undersigned, in his capacity as Chairman of the Associated Committees of Illinois, for the purpose of lending additional encouragement to the celebration, forwarded telegrams to all the various Bar Associations in the United States, tendering the greetings of the committee. These telegrams were read at the various assemblies, and gave a tone of inter-state fraternity to the celebration.

In the states of Oregon, Kansas and Idaho, the day was made a legal holiday by proclamation of the Governors.

The most notable and imposing part of the celebration was the voluntary action of almost all the courts, both federal and state, which, upon the request of this Association, made at the August session, 1900, closed the courts of the country by the cessation of general judicial business.

Such an event had never taken place in the United States during any working day, and it included the Supreme Court of the United States. It may be fairly stated that with very few exceptions the courts in the United States adjourned for this special occasion. Many notable addresses were made by eminent members of the Bar in the large cities of the country, in support of motions to adjourn the court sessions over “John Marshall Day,” and proceedings in the various courts and responses of the judges have in most instances been recorded in the minutes of the courts, thus forming a permanent official memorial of the day. It should also be stated that Centennial proceedings took place in nearly all the states and territories of the United States, and particularly in all the large cities of the country, except the City of New York.

Owing to your Secretary's residence in Chicago, he may be permitted to speak especially of the state of Illinois, in view of the fact that the suggestion for the celebration first came through the Illinois State Bar Association. The proceedings were of a manifold character, and in all the courts of Cook County, wherein the City of Chicago is located, addresses were made in aid of the motions to adjourn. An imposing meeting was held at the Auditorium before an audience of over three thousand persons, at which Senator Henry Cabot Lodge of Massachusetts delivered the Centennial oration. In the evening a banquet was held at the Auditorium Hotel, at which more than four hundred guests were present.

Most interesting addresses were delivered by Judge Peter S. Grosscup, Hon. James M. Beck of the Philadelphia Bar, Hon. H. D. Estabrook of the Chicago Bar, and Dr. Emil G. Hirsch. The entire local celebration was of a high character, participated in by various law schools, and the principal public schools, as well as some of the Universities.

The celebration at the Capitol of the state at Springfield took place before the Supreme Court on the 5th of February, 1901, being the first day of the February term of the court, and Senator William Lindsay, of Kentucky, delivered the Centennial oration in the presence of an audience largely made up of members of the General Assembly, then in session, and citizens.

Celebrations also took place in various parts of the state, notably at Champaign, University of Illinois; at Bloomington Wesleyan University; and at Effingham.

The proceedings before the Supreme Court of Illinois appear in Volume 191 of the Illinois Reports.

I beg to present to this Association the Chicago Memorial Book containing the entire proceedings at Chicago and at Springfield, Illinois, a volume of 194 pages, which was printed at a cost of over \$600.

Proceedings of an imposing character took place at Albany, the capital of the state of New York, before the Court of

Appeals, at which Hon. John F. Dillon, of the New York bar, was the chief orator. These proceedings were largely attended by the State Bar Association, and a committee of one hundred from the New York City Bar Association, which joined the State Bar Association in the proceedings at Albany.

One of the noteworthy events took place at Indianapolis, Indiana. General John C. Black, of Chicago, was elected as the orator of the day by the Indianapolis Bar Association. He suddenly fell ill just before the day of celebration, and William A. Ketcham, of the Indianapolis bar, undertook, at short notice, to prepare and deliver the Centennial oration. He acquitted himself with great ability.

I wish to point out that in the city of San Francisco, California, there was a celebration of a very noteworthy character. Addresses were delivered in all of the courts, and there was a banquet at which sentiments and toasts were responded to. This was also the fact in various parts of California, and no state was more alive to the occasion than the state of California. All the public schools were interested, and I know of no state, not excluding the State of Illinois, where there was more zealous effort to celebrate the day.

It would lengthen this report too much to speak of all the states specifically or in detail, but special mention may be made of the celebration in Virginia, where at Richmond, Associate Justice Horace Gray, of the Supreme Court of the United States, delivered the Centennial oration. The invitation to Mr. Justice Gray by the Richmond bar was typical of the educating influence which was the result of the celebration. The committee considered that inasmuch as John Adams, of Massachusetts, had appointed John Marshall, of Virginia, Chief Justice of the United States, therefore it was meet and proper that a son of Massachusetts should be invited to deliver the centennial oration. This sentiment accentuates the cordial relations now existing between the states of Virginia and Massachusetts, and recalls the fact of their coöperation in the days of trial prior to the adoption of the Constitution of the United States.



Most interesting Centennial exercises took place in the state of Georgia, notably in the city of Atlanta. I especially point to these because the one dissenting voice that was heard, so far as it was publicly known, came from the state of Georgia in the protest of a former President of the State Bar Association. I am also pleased to state that in most of the southern states, notably in Georgia, Kentucky, Tennessee and South Carolina, Centennial proceedings of a memorable character are worthy of being recorded.

Without wishing to detract from the merits of any member of the committee, I must specially point out the valuable services of Mr. Henry E. Davis, of Washington, D. C., of Mr. William L. January, a member of the committee for Michigan, and of Judge Selden P. Spencer, a member of the committee for Missouri. Proceedings in both states were of the most interesting character, and they have been published in elaborate pamphlets. It would require a historian to do justice to all these proceedings, but it is sufficient to say that from Boston to New Orleans, with possibly the exception of Vermont (of which I have not received any detailed report), the celebration was a success in all parts of the country.

I wish also especially to point out the lively participation and interest of the people at large, and particularly of the public schools of the United States. When the celebration was first proposed an eminent member of the American bar criticized the proposal, wishing to confine it entirely to members of the legal profession. He wrote:

“While I think this event is one which can properly be commemorated and celebrated, yet I doubt very much whether it is possible to make Marshall the subject of popular worship in the manner that is customary for military heroes and popular statesmen. It seems to me that it would be better to confine the project to the bench and bar, whose appreciation of the subject would be appropriate and thorough, rather than to attempt to extend it to people who do not understand, and

who never will understand except in a general way, the value of his services."

This was a mistaken judgment, and it was felt that it would be so. Most of the Universities and the principal public schools in the United States participated in the celebration in some fashion. The principals of the public schools in many states made special appeals to the schools, which were promptly heeded.

I take pleasure in pointing out the participation in many places of the Sons and Daughters of the American Revolution.

I wish also to emphasize the great aid and interest given to the celebration by the American secular press.

As the result of the celebration many of the orations have been published in pamphlet form, and they continue to be published from day to day. In addition to the pamphlet now presented, containing the orations of Senator Lodge and Senator Lindsay, and other addresses made in the courts and at banquets, the following pamphlet addresses have reached the undersigned :

President Andrew S. Draper, University of Illinois, Champaign, Ill., delivered before the University Convocation.

Hon. John A. Shauck, of Columbus, O., delivered at Columbus.

Hon. Judson Harmon, Cincinnati, O., at Columbus.

Hon. Richard Olney, delivered before the Boston Bar Association.

Hon. Wm. Lindsay, delivered before the Supreme Court of Illinois.

Hon. Charles H. Simonton, Charleston, S. C., at Columbia, S. C.

Hon. J. P. Blair, New Orleans, La., before Louisiana Bar Association.

Hon. Wm. Pinkney Whyte, at Baltimore, Md.

Hon. Charles J. Bonaparte, at Baltimore, Md.

Prof. James Bradley Thayer, Cambridge, Mass., before the Harvard Law School.

Hon. Fred'k W. Lehmann, St. Louis, Mo., delivered at Des Moines, Ia.

Hon. John N. Baldwin, Omaha, Neb., delivered before Iowa State University and Iowa State Bar Association, at Iowa City, Ia.

Hon. U. M. Rose, Little Rock, Ark.

Hon. Wayne MacVeagh, at Washington.

Hon. Horace G. Platt, San Francisco, Cal., at Portland, Ore.

Hon. J. G. Slonecker, Topeka, Kan., before Kansas State University.

Hon. Horace Gray, at Richmond, Va.

Hon. Henry Cabot Lodge, at Chicago, Ill.

Hon. Horace H. Lurton, Nashville, Tenn., at Nashville.

Hon. James M. Woolworth, Omaha, Neb., at Omaha, Neb.

Hon. Peter Stenger Grosscup, at Chicago.

Hon. A. M. Thayer, St. Louis, Mo., at St. Louis.

Hon. Henry Hitchcock, St. Louis, Mo., at St. Louis.

Hon. James Hagerman, President Bar Association, St. Louis, Mo., at St. Louis.

Hon. Henry T. Kent, St. Louis, Mo., at St. Louis.

Hon. James L. Blair, St. Louis, Mo., at St. Louis.

Hon. Elmer B. Adams, St. Louis, Mo., at St. Louis.

Hon. Simeon E. Baldwin, New Haven, Conn., at Yale University.

Hon. Charles E. Perkins, Hartford, Conn., at Yale University.

Hon. N. Shipman, at Yale University.

Hon. Francis M. Finch, Cornell University, Ithaca, N. Y., at Yale University.

Hon. Wm. B. Hornblower, New York City, at Albany, N. Y.

Hon. Alton B. Parker, Chief Justice Court of Appeals, Albany, N. Y., at Albany.

Hon. Luther Laflin Mills, Chicago, and Hon. John C. Donnelly, at Detroit, Mich.

Hon. Isaac N. Phillips, Bloomington, Ill., before Chicago Kent College of Law.

Hon. Hannis Taylor, of Mobile, Ala.

Hampton L. Carson, Philadelphia, at Cleveland, O.

Chief Justice Oliver Wendell Holmes, Jr., before the Boston Bar Association.

Prof. Jeremiah Smith, before the New Hampshire Bar Association.

Hon. Le Baron B. Colt, U. S. Circuit Court, at Providence, R. I.

Hon. Neal Brown, Wausau, Wis., at Milwaukee.

Hon. James T. Mitchell, Justice of Supreme Court of Pennsylvania, at Philadelphia.

Hon. Bartlett Tripp, Pierre, S. D.

Hon. Hosea M. Knowlton, Attorney General of Massachusetts, at Boston.

Hon. J. M. Bartholomew, Chief Justice Supreme Court of North Dakota.

Hon. W. C. Caldwell, Justice of Supreme Court of Tennessee.

Hon. Charles N. Potter, Chief Justice Supreme Court of Wyoming.

W. A. Ketcham, at Indianapolis, Ind.

Judge C. H. Hanford and Hon. Charles E. Shepard, at Seattle, Wash., before University of Washington.

Hon. George H. Williams, Salem, at Salem, Ore.

William S. Elliott, Jr., before High Schools of Chicago.

Henry B. Kepley, W. B. Wright and S. F. Gilman, before Effingham County, (Ill.), Bar Association.

Charles B. Seymour, William Warwick Thum, William Marshall Bullitt, Edward J. McDermott and Bernard Flexner, before Louisville, Ky., Bar Association.

John D. Milliken, at McPherson, Kan.

Rev. W. Strother Jones, of Trenton, N. J., at Baltimore.

Henry St. George Tucker, of Lexington, Va., at Boston.

John Bassett Moore, of New York, at Wilmington, Del.

- Hon. Russell C. Ostrander, at Lansing, Mich.  
Hon. Charles A. Pollock, before Red River Valley University, Wahpeton, N. D.  
Wm. S. Forrest, Chicago.  
Hon. Emory Speer, Macon, at Savannah.  
Charles Freeman Libby, Portland, Me., Bowdoin College.  
Sanford B. Ladd, Kansas City, before Kansas City Bar Association.  
Hon. John F. Dillon, New York, at Albany.  
S. S. Gregory, at Chicago.  
John F. Follett, of Cincinnati, before Toledo Bar Association.

Your Secretary desires to acknowledge the great aid given to the committee by Messrs. Callaghan & Co. and T. H. Flood & Co. of Chicago, and by the Lawyers Coöperative Publishing Company of Rochester, which latter company re-published the address of Judge Story delivered in October, 1835; also by the West Publishing Company of St. Paul, which published the address of Hon. Isaac N. Phillips of Bloomington, Illinois. Particular mention should be made of the kind assistance given by the Associated Press, which at all times was ready to spread necessary reports throughout the United States. In this way a request was made to the clergymen throughout the United States to notice the celebration and to speak of the theme of "John Marshall" on the Sunday preceding the Monday of the celebration, which was done in many instances.

The expenses of your committee, appropriated by the Executive Committee, were \$750.

The pamphlet entitled "How to Celebrate John Marshall Day" which was circulated—several thousand copies, and which in its suggestions gave uniformity to the celebration, was paid for by the Illinois State Bar Association, and 1000 additional copies were circulated and paid for by the Commercial Law League of America. The expenses of the various celebrations were borne locally, and a very large amount of

money was expended in these various celebrations, thus evincing the universal interest of the Bench and Bar.

As one of the pleasant incidents in connection with the arduous duties of the secretaryship, your secretary begs to acknowledge publicly the great pleasure which he has derived from the correspondence with various members of the family of Chief Justice Marshall. They were profoundly pleased at the appreciative interest shown by the American bench and bar in the memory of John Marshall, and I am authorized by them to return their grateful recognition, particularly to the American Bar Association.

A feeling of considerable satisfaction at the outcome of the celebration is acknowledged, because, in the beginning, many doubted its possibility, and, while they did not oppose it, they gave but a lukewarm assistance and support. But the triumph came at last, and it has redounded to the glory of the American bench and bar, and no less to this Association, which gave it sanction.

In the original proposal of the Illinois State Bar Association, anticipating what I inevitably felt, the following prophetic statement was published :

“The celebration of this day by the bench and bar of the United States will bring together the greatest assemblage of lawyers and judges which the world has ever witnessed, and the dedication of the day will mark an event, unexampled in the history of English-speaking lawyers and judges.”

This statement has become true, and it remains to speak but briefly of the educational influence and national value of this unique celebration, the first in the history of this and other countries in which the virtues and services of a great Judge were in this national form held up to his admiring countrymen.

During the progress of the undertaking the University of New York established the Hall of Fame. Much interest was felt in this matter by your Secretary, and considerable correspondence was indulged in for the purpose of bringing home the

merits of the judicial services of the great Chief Justice, to the committee having the matter in charge. I think it may be fairly stated that the institution of "John Marshall Day" aided in bringing to the notice of the committee having the nominations in charge, the exalted position of Chief Justice Marshall as a judicial example. The fact is worthy of record that ninety-one votes were cast for John Marshall, which was the seventh highest vote.

The underlying aim of the celebration was to educate this generation in the lessons of the period in which John Marshall lived. This has been most successfully done. With the aid of the Press, and the re-publication of the great orations of the past, the American bench and bar has refreshed its recollection of the great epoch of state-builders. While I might dilate upon this subject extensively, I could not express the value of the celebration any better than by re-producing in this place the words of Senator Lindsay, spoken before the Supreme Court of Illinois :

"Respect for the American theory of liberty regulated by law, inspired the thought of 'John Marshall Day,' and invoked the movement resulting in the numberless demonstrations in honor of the American judge who pointed the way through which supreme authority may be freely exercised while constitutional limitations continue to be observed. The lessons these demonstrations teach are incalculable in value as they are elevating and ennobling in results. The good, the great and the useful in the fields of beneficent action would live in vain if the memory of their deeds should be permitted to fade into dim forgetfulness."

It will perhaps surprise many to know that over 500 addresses, papers and responses to toasts were delivered.

The character of the Centennial was also tersely and beautifully expressed in a set of resolutions presented to your Secretary by the Chicago bar. It was there said that "The inspiration thus derived from the career and character of the great Chief

Justice dignifies the bar, exalts the bench and strengthens the Republic."

The honor of the Secretaryship, while imposing arduous duties, is freely acknowledged, and the Secretary's special thanks are here recorded to the hard workers—one and all—who zealously helped to nationalize this historic celebration.

On behalf of the Committee,

Respectfully submitted,

ADOLPH MOSES,

*Secretary.*

DENVER, COLORADO,

August 22, 1901.



**REPORT**  
**OF THE**  
**SPECIAL COMMITTEE ON THE LOUISIANA PURCHASE**  
**CENTENNIAL.**

*To the American Bar Association :*

Your Special Committee on the Louisiana Purchase Centennial, to whom was referred the Memorial of the Exposition authorities advising of the contemplated holding of an Universal Congress of Lawyers and Jurists during Centennial celebration at St. Louis, Missouri, in the year 1903, and asking the coöperation and support of this Association in planning such Congress, with the accompanying invitation for this Association to hold its annual meeting at St. Louis in that year, having carefully considered the same, are unanimously of the opinion that the encouragement and promotion of the holding of an Universal Congress of the Lawyers and Jurists of the world, such as contemplated by the memorial, tends to further one of the principal objects of this Association which, as its constitution declares, is "to advance the science of jurisprudence."

The Louisiana Purchase Centennial has received liberal aid and encouragement from the National Government in the appropriation of \$5,000,000 which, with the \$11,000,000 provided by the city of St. Louis, its citizens and the State of Missouri, constitutes a guaranty of the Centennial Exposition itself, and the appointment of national commissioners to coöperate with the local management is an added assurance of the proper administration of the trust.

We are advised that the educational forces of the world are to hold their meetings in St. Louis during the Exposition of 1903. The President of the United States has given further official sanction of the Government to the Exposition in a

proclamation issued to the nations of the earth, August 21, 1901, in which he says :

"In the name of the Government and of the people of the United States I do hereby invite all the nations of the earth to take part in the commemoration of the purchase of the Louisiana territory, an event of great interest to the United States and of abiding effect upon their development, by appointing representatives and sending such exhibits to the Louisiana Purchase Exposition as will most fitly and fully illustrate their resources, their industries and their progress in civilization."

We recommend the adoption of the following resolution :

1. *Resolved*, That a committee composed of one member from each state and territory of the Union and from the District of Columbia be appointed by the President of this Association to coöperate with the authorities of the Louisiana Purchase Exposition Company and the United States Commission having in charge the celebration of the centennial of the purchase by the United States from France of the Louisiana territory, in bringing about the holding of an Universal Congress of Lawyers and Jurists at St. Louis, Missouri, in 1903, on the lines proposed in the memorial of the Louisiana Purchase Exposition Company presented at this meeting to this Association.

2. *Resolved Further*, That the President and the Executive Committee of this Association be requested to take all necessary and appropriate steps to promote and carry out the plan of holding such Universal Congress of Lawyers and Jurists.

3. *Resolved Further*, That a copy of these resolutions and the accompanying report be transmitted by the Secretary to the Louisiana Purchase Exposition Company and to the said United States Commission.

HIRAM F. STEVENS,  
*Chairman.*

PROCEEDINGS  
OF THE  
SECTION OF LEGAL EDUCATION.

*August 22, 1901, 3 o'clock P. M.*

In the absence of the Chairman of the Section, Hiram F. Stevens, of St. Paul, Minnesota, was elected Chairman *pro tempore*.

The Chairman :

Gentlemen, I will endeavor to perform the duties of temporary chairman, with your kind assistance and forbearance, to the best of my ability. I understand that the Secretary of the Section is not present, and it will therefore be necessary to nominate a Secretary *pro tempore*.

James Parker Hall, of California, was elected Secretary *pro tempore*.

The Chairman :

The regular business this afternoon would have been an address by the Chairman of the Section, but he is unable to be present. We all regret very much Professor Hutchins' absence, and the sentiment of the Section should be expressed to him to that effect.

I understand that Professor Abbott's paper on "Undergraduate Study of the Law" has not yet been received. Therefore I am instructed to inform the Section that in view of these disappointments the programme has been somewhat re-arranged, and, after the first paper this afternoon, we shall have the very great pleasure of hearing the paper of Professor Rogers of the Indiana State University, which was to have been the third paper to-morrow.

We shall now have the pleasure of listening to the paper by Professor Harry Sanger Richards, of the Iowa State University, on "Credit for Office Study in Law Schools."

Harry Sanger Richards then read his paper.

*(The Paper follows these Minutes.)*

The Chairman :

I am sure, not only as your applause indicates, but as your better judgment will testify now and in the future, that we have all enjoyed a rich treat upon a practical subject, and that it will not be without its good influence.

It is one of the pleasures, a very great honor, which the incumbency of this temporary position gives me, to have the privilege of presenting to you a gentleman whom you all know, whose reputation is not bounded by any professional or territorial limitation, It is especially fitting that the topic upon which he will address you should be one which possibly has been fully considered, but which probably is susceptible of further elucidation in this magnificent state and beautiful city in which we are holding our session. You shall now have the pleasure of listening to an address on the subject "Is Law a Field for Women's work?" by Professor William P. Rogers, of Indiana State University.

William P. Rogers then read his paper.

*(The Paper follows these Minutes.)*

The Chairman :

We are all indebted, as society will be indebted, for so much light upon so important a social problem; and as the speaker has intimated, this question, like every other question in which woman is interested, she will ultimately settle, and all the light upon the question will enable her to settle it to her advantage and to our interest, and I am sure she, with us, will be much indebted for this able address.

Is there any further business to come before the Section this afternoon?

E. W. Huffcut, of New York : It is the admirable custom of this Section to expose papers which are presented to it to as much of discussion and criticism as possible. I think it would be of great interest to all those who are in attendance here to have some discussion of the important questions raised in these

two papers; and, so that they may be taken in due order, I should like to make a few observations concerning the very admirable paper presented by Professor Richards.

The Chairman :

In view of the custom of this Section, the remarks of Professor Huffcut are in order.

E. W. Huffcut :

I think all who are engaged in law school work must feel that the questions grouped in the paper of Professor Richards are of immediate and practical interest. Every year there come to the doors of the law school a considerable number of young men asking admission to advanced standing upon work which they have done in the law offices. The schools have their prescribed course of study, either two or three years, as the case may be. The applicant desires to shorten that course of study by being permitted at the time he enters the school either to pass an examination upon the work of the first year, or to have accepted, in lieu of such an examination, certificates, either from an attorney or from another law school, that he has satisfactorily completed the work of that year. Now, I know not what the experience of other law teachers may be, but my own is this: In the first place, the year of work in the law school which the student can least afford to omit is the first year. Secondly, that, save by a miracle that happens only once in a thousand times, no student ever secures in any law office the proper substitute for that first year of law school work. It is true that a considerable number of the schools, among which my own is numbered, do examine students upon the work of the first year, with a view, in case they pass a satisfactory examination, to advancing them to second year's standing. If successful, these students are therefore not required to take, in the law school, those primary and fundamental and indispensable subjects that are usually, indeed, I think, invariably, laid down in the first year of a law school curriculum, and those students never in their subsequent work in that school—with very rare exceptions, if there be any—do as sat-

isfactory work as men of like ability who have taken the first year of their law study in a law school. To my mind it would be far more advantageous to the cause of legal education if the law schools, instead of examining the students upon the first year course would make it an invariable rule that a student who has not taken the like course in another law school, shall take the first year of his course in the law school which he enters, and then, if he desires to have any credit for office work of any sort whatever, that he shall be credited for the second or third year work, as the case may be, if he can satisfactorily pass the examination in those years. Personally my own view is that very little advantage could be derived by giving the student credit for any office work ; but if any credit is to be given him for any office work whatever, I believe it would be far better for him if that credit be given to him for the second or third year of the law school course, rather than for the first year. The law schools would confer a benefit upon every student if they would require that he should take the first year of the law school course in a law school, thereby being grounded by those whose business it is to teach the law in the elementary and fundamental subjects that the student must know thoroughly before he can pursue the study of the law to any advantage whatever.

C. A. Robbins, of Nebraska :

That same line of thought is the line pursued by Professor Richards. It has long been an announcement, as I have observed in the Iowa catalogue, that the student should take his first year in the school in preference to some subsequent year ; and there is a reason for that which has not been broached by either speaker I think, and that is that, unlike the medical profession, the mastery in the law does not consist in the acquirement of a vast number of facts, but rather in a system of reasoning, and I have no question that a man who takes his first year in the school on such subjects as substantive law, will be better qualified out of the school to take the like subjects afterwards. I deny that the first year's subjects are

the fundamental subjects under the Common Law system. I deny that contracts and torts and property are the fundamental subjects. I know there are a great many men engaged in law school teaching in this country who are inclined to be pedagogues. I do not think a man need be a good practicing lawyer to be a good law school teacher. But the work of the law school, after all, is the production of practicing lawyers, and everybody here knows that the backbone of the Common Law system is its procedure. As a rule those subjects are not found in the first year. They are found in the second year or the third year, and, while requiring attendance upon the first year has the advantage of giving the student a proper method of study, it has the decided disadvantage of not giving him that close discipline in those subjects which, if not under the civil law, under the Common Law are the real fundamentals.

James Paige, of Minnesota :

While heartily agreeing with Professor Huffcut I would like to ask him this question : If it is necessary for us to accept, in lieu of one year in the law school, one year of office work, which I with him deplore any necessity for doing at all—if it is necessary to accept it—would it not be wise to insist upon a review of the first year's work while the second and third year are being taken, providing the curriculum of the school is so arranged that the review can be taken in the class, accepting the time but not the quality of the office work ?

E. W. Huffcut :

I would reply that so far as the quality is concerned, that must be tested at the time the student is admitted to the school; at least, that is the custom at the schools with which I am familiar. No student would be given credit for any office work unless at the time he entered the school he passed a satisfactory examination upon the subject in which he desired the credit.

Now I may say frankly that in my experience in examining during the past seven or eight years, out of a considerable number of the applicants from offices who desired such advanced standing, I have found that not more than one in five can

pass a satisfactory examination upon the work of the first year. The quality, therefore, of the work ought, it seems to me, to be tested when the student applies for his admission ; and in case he does not at that time show by a satisfactory examination that he is qualified to pursue the second year's work, he ought not to be admitted to pursue it, but ought to be required not only to review the first year's work, but to take it as a substantial part of his work and to remain the full period of time in the school. But assuming that he has passed a satisfactory examination and is admitted to second year standing, then the question whether he might not profitably review the first year's work is, I think, a pertinent one ; and if that could be done without disadvantage to the second year's work, I should think it very desirable. But my whole experience is that the work of a particular year is all that a student, or the average student at least, can carry with profit to himself, and that work in the nature of supplementary or review work is very likely to result in detriment and damage to the regular work which he is pursuing.

Edward A. Harriman, of Illinois :

With reference to the matter of admission, it seems to me that, at the present time, to give credit for work done in the law offices is simply a concession to the necessities of many of the students who feel unable to spend three years in a law school. It may be true that a very small fraction of the men who have studied law in a law office can, by any possibility, pass the examination of the first year in a law school. In the Northwestern University Law School these examinations for admission to the second year class are abolished and the situation is simply this : The student who comes and says he has studied law for a year in a lawyer's office, and who says he thinks he knows the subjects of the first year, is allowed to act upon his own idea of his own knowledge and is admitted to the second year class, but in order to obtain his degree he has to pass examinations on the work of the first year. Now it often happens that a man who at the beginning of his law school



work would be unable to pass any of these examinations is able, by reason of his training in the law school, to take up that work later. This is really a concession in the matter of time to the students who are unwilling to spend three years in a law school and who therefore have to get through in two years. Whether it is a concession which should be continued or not is a matter of serious thought, and must depend, I think, upon the state of the particular school.

Edward Q. Keasbey, of New Jersey :

Is not the real truth of the matter that the things done in the office and in the law school are really different? The question is not merely how much credit should be given by the law school for time spent in the office, but rather how much credit shall be given to the law school by the judges of the court in determining who shall be admitted to the bar. The question with the judges is how much of the time prescribed for the study of law shall be allowed to be taken by the law school. That is the other aspect of the question, and one which appeals to the practicing lawyer. There are two things that a man has to learn in order to become a lawyer: One, the principles of the law; and the other, how to apply the law to the case in hand. Now the principles can best be learned in a law school, but the practical work, how to apply those principles to the facts of the case in hand, can best be learned in an office; and I do not believe that any law school can take the place of a law office in preparing a young man for the practical work of a lawyer. Therefore it should always be borne in mind, in the consideration of this question, that there are two things to be acquired by the student—and the question is not merely how much credit shall be given to the office; probably no credit ought to be given for the work in the office upon the preparation for the degree, because the office is wholly incompetent to give the knowledge for which a degree is conferred. The real student work must be done by the student by himself or in the law school. The law schools have only to judge for themselves whether in the practical condition

of affairs they can require the whole three years for the actual law school work.

A. A. Bruce, of Wisconsin :

It seems to me that if any time is given, it should be given after the first year or first two years of the study of the law school. I take issue with the proposition that pleading and practice are more fundamental than contracts or torts. In order to be able to draw a pleading, surely some knowledge of the fundamental principles are necessary. So it seems to me that if any concession is to be made to the law schools, it should be to remit the first year in favor of the office.

C. A. Robbins :

I suggest that there are several Supreme Court judges present, and we should like to ask them as to their observations of where the pitfalls for lawyers are—whether they are not in pleadings more than in all other subjects combined ?

The Chairman :

If those gentlemen will admit us into their confidence in this way and disregard the constitutional provisions which exist in some of the states, and the personal objections in others, we shall all be delighted.

C. A. Robbins :

We should like to hear from Judge Irvine.

Frank Irvine, of Nebraska :

I do not know that I can say anything that will enlighten you gentlemen on this subject. In response to Professor Robbins' direct inquiry, I would say that my recollection is that some statistics were compiled in Nebraska at one time showing that about forty-seven or forty-eight per cent. of the questions coming before the Supreme Court for decision were questions of procedure. I have been informed that the proportion in some other states is still greater. I do not know, so far as locating the pitfalls is concerned ; but I think there is this difference. By diligent attention to the books, by inquiring among practicing lawyers, and by observation, I think one can

usually ascertain with some certainty wherein lies the correct practice, and it is one's own fault if he makes a blunder. On a matter of substantive law no person can find out what it is, and no matter which way the court decides, a man can always convince himself and often his client that he is right in spite of the court.

George C. Manly, of Colorado :

It seems to me that this question of the admission of students to advanced standing is one that will give us less and less trouble as the years go by. The very fact that in every meeting of law school instructors this question is earnestly discussed, arises from the fact that it is uppermost in our minds, as instructors, as one of the most troublesome questions affecting the efficiency of law schools. My own experience as a student was that the men who entered on advanced standing after reading in offices were not as well equipped as those who had taken the regular course in the law school, and my opinion in that particular is still more strongly confirmed by my experience as an instructor. I believe it is the experience of all instructors that as the years go by we learn more about the correct method of dealing with this question, and are less apt to exercise clemency in admitting students to advanced standing, unless they are equally as proficient as students who have taken the work in our respective schools, and our own experience leads us to act upon such applications in a more cold-blooded manner. If you will look back over your own experience as instructors, you will seldom recollect a case where you have exercised clemency on the question of admission to advanced standing that it did not come home to you during the year as a mistake, and that some man thus admitted was not a laggard in the class, whose lack of proficiency in the courses already covered by the class lessened his ability to understand, and brought the annoyance of continual interruptions by questions. My own experience as an instructor is that every year we eliminate a great deal of the sympathy which we originally exercised in favor of those applying for

advanced standing, and that we more rigidly examine them upon the subjects for which they are seeking credit, and are less likely to construe any doubts in favor of the candidate. If you will look back upon any cases where you have exercised clemency toward an applicant, either for advanced standing or upon the question of issuing a diploma, almost without exception you will find that you have had cause to regret it in your class room experience in the advanced courses or in his career after graduation. It seems to me that the question is largely one of administration, and that as the years go by each instructor works out the problem for himself from his own experience, and that our individual experiences incline us to construe more rigidly the requirements of our respective schools.

The Chairman :

If there is nothing further to be said on this question, the Chair would make this suggestion :

I believe it has never detracted from the value or interest of Caesar's Commentaries that the author states that they relate to events all of which he saw and much of which he was. Now the subject of Professor Roger's paper in relation to women's rights and privileges in the practice of law is one upon which I hope we may have some practical suggestions by a lady who has honored us with her presence, whose years are too limited to have seen it all or to have been a very large part of the practice of women at the bar, but who has, notwithstanding attained an eminent position at the bar. I trust that Miss Lathrop will, from the seat she occupies, kindly favor the Section with her views upon this subject.

Miss Mary F. Lathrop, of Colorado :

Mr. Chairman and gentlemen :

I do not think there is anything to discuss in Professor Rogers' paper. It was kind, it was fair, it was just. I, too, believe that the solution of the question depends entirely upon the individual woman. Therefore, I do not propose to discuss his paper. It is not my intention to make a speech.

Happily, gentleman, we are here by ourselves, free from dread of notoriety and the curious, critical outsider. We are where we can have what Mr. Bok in his "Ladies' Home Journal" calls a "Heart-to-heart talk," and if you want to know something of my experience in the practice of the law, I shall be happy to speak of it briefly.

Law and the love of things legal, as those of you who hail from New England will agree, are an inheritance with my name. My paternal grandmother was Mary Isham, and my mother's people also were lawyers. I studied law because I liked it, and I wanted to be a lawyer from the time I was old enough to know what I did want. The chief obstacle in my legal pathway was my mother. Once her consent was obtained I began my law course.

After being graduated from the Law Department of the Denver University, I went to Philadelphia, my old home, and studied for a year on wills and administrations, of which I aimed to make a specialty. I never intended to be a general practitioner; my wildest dreams never extended beyond probate and real estate law. While in Philadelphia, through my kindred and the friends of my childhood, I had a number of wills to draw, one of very great importance. I returned to Denver with business for Philadelphia clients, the care of real estate and Denver investments for various individuals and corporations. In opening an office I aimed to begin as a young man would, by sitting down and waiting, and studying while I waited. I began at the bottom because I did not want to get hurt when I fell off; and the kindest of my brethren gave me six months in the little office. I have been there nearly five years.

In the beginning I wrote to each of our judges, "I will not dabble in divorce or criminal law, and respectfully request that no assignments be given to me." While it was merely the outward expression of an inward feeling, I have since thought that the judges and my brothers-at-law were kinder to me because of that public stand. Unexpectedly, and through a

financial collapse of wide notoriety, heavy and complicated Eastern interests speedily came to me—matters which I would have been unable to manage without the aid of more experienced brains. I at once retained masculine counsel, for you know it takes a man and a woman to win a case. I drudged as faithfully as I could under their guidance, and the results pleased my clients. I worked at night, and at odd times on our wills act, briefing it section by section, and tracing its amendatory journey through ten states. Besides various will matters, that work brought me the brief in the Clayton Will Case—our Girard College Case and our first case on charitable bequests. The first half of the brief was satisfactory to the executor, and I finished it. We won in the District Court.

There were surprises. I expected women clients; I have had five men for every woman. I expected to commence with small matters; I had heavy ones, perhaps because of my previous business training, probably because I was willing to drudge and pay personal attention to detail. I succeeded beyond my expectations, and have tried to keep myself and my clients out of the newspapers.

Professor Rogers has asked what betterment will come to society through women practicing law. In part that question is already answered. The troublesome question of divorce has been under consideration by this Association. It seems to me the woman lawyer is your helper in solving that problem. There are but two of us practicing in Denver. Miss Hunt would do awful things to me if she knew I spoke of her as a lawyer (she says she is a law clerk), but she is a good lawyer, and a gracious and excellent woman. Neither of us take divorce cases. Both of us have adjusted innumerable family quarrels without money and without price. My own horror of divorce has been increased, not diminished, by my professional experience. Early in my practice a man and a woman came into the office to sign an instrument requiring both names. With them was a little maid of five. I offered her some candy with the remark, "Give some to your mamma and papa."

Her eyes widened. "He is not my papa," she said; "my papa lives in Kansas City!" I thought a great many things, first and foremost among which was that I never would be directly or indirectly responsible for the increase of that condition of affairs.

It was only a few weeks afterward that a nice, motherly young woman came in to tell her domestic woes. I did not tell her that I did not take divorce cases, but let her tell her grievances, which were many and real. Then I asked, "Have you any children?" "Yes, two." "Any dead?" "Yes, one." "How old was the baby when it died?" I queried. Her voice broke as she said, "In his second summer." "Was your husband fond of him?" "Oh, yes." The tears came as she told how he carried the little one in his arms all through the night before he died, and gave him back to her motherly arms just in time for the tiny life to go out against her heart.

I thought of the way women do and asked, "Have you any of the baby's things?" Never was woman born who did not treasure worn little shoes and tiny garments of the child who early fell asleep! She nodded, and I went on, "You have come to the parting of the ways; you say you will never live with your husband again, and of course you mean it. You are young and you will have many years to look back and think about the father of your children. No matter what he has done to you, in those hours you will be glad to remember that you were fair and honest. You say he loved the baby, that it was named for him. I think you ought to give him some of its things, and I think you ought to give him his choice." She was still belligerent; she would not. It was her baby. "Yes, but it was his baby too; you say he was not the same for over a year. You will regret it bitterly if you are not fair." Finally, she said he should have his choice, and went her way.

We do not get paid, and we do not get thanked for the best we do, brethren, and, what is harder to bear, people do not understand. Three days after she came back, stood just inside

my door with her hand on the knob, looked me over hostilely, and said: "My husband is a good man, and you can't separate us! I do not want a divorce." And she went out!

The woman practitioner, then, strengthens rather than severs domestic ties. Further, she stands for the betterment of the conditions surrounding women workers. There is a great and growing army of young girls employed in offices, in stores and in shops. Through lack of judgment, often through absolute necessity for support, they are in places where they never should be. They are not permanent, and for their protection they must know their legal as well as their moral rights. They will talk to a woman lawyer as they never would or could talk to a man. Hence, if we women practitioners serve no other purpose, I believe we have a reason for our being—as the bridge over which our younger and less experienced, and, if I dare use the word, weaker, sisters may march to honorable wifehood and motherhood, a calling which, I agree with you, gentlemen, is the highest and noblest and holiest to which a woman can attain. And I do not believe that a married woman should practice law. One thing at a time!

The Chairman:

I am sure that if any verdict were prepared by this jury to sign, it would be in favor of the learned counsellor who has just presented her cause so ably. We have learned, if we did not know before, that the grace and tenderness which belongs to womanhood is not decreased as its sphere is enlarged, and some of us have learned something new, if it be true that it takes a man to handle a woman, because our experience has been, from Eve down, that woman has handled man.

I am sure we are all greatly indebted to Miss Lathrop for her very interesting remarks.

James D. Andrews, of Illinois:

I thought while Dr. Rogers was speaking that I would take the opportunity, not of debating any question which he has raised, but of giving to you the result of my own observations, because, after all, that is about all that we can now do in this



matter. The question of their admission is a foreclosed one. We glean what we can from observation and facts. As a resident of Chicago, I have had an opportunity to observe the practice of law by women as well perhaps as anyone this side of New York at least. Now the name of the honored woman who was first mentioned, Mrs. Myra Bradwell, who made the fight for admission, does not afford the opportunity of knowing precisely what a woman in active practice might do, but I think my brethren from Chicago will agree with me that Mrs. Bradwell has done as much to elevate the standard of the law in Illinois as any man. And I think her business career coupled with her domestic career is one of the finest illustrations of the fact that a woman may engage very actively and successfully in business, and that business connected with the law, and lose nothing of the tenderness of women or nothing of the respect and admiration of her husband, because there never was a sweeter couple than Mr. and Mrs. Bradwell.

Mrs. McCullough, I think, must be taken as an illustration that a woman may practice law side by side with her husband and yet never lose anything of dignity or purity or of the respect of those who are acquainted with her, or the admiration and affection of her husband. Mrs. McCullough I knew before she was admitted to the bar. During her study I knew her, and since her marriage; and I have taken especial pains to observe and reflect upon the career of that noble woman. She has been a successful practitioner, and yet, as I consider that she is the mother of a family, and that the duties of her employment were interrupted by the higher duties of motherhood, I believe that if I were to choose her career, with the knowledge of what I have known, I should have preferred that when she became the wife of Mr. McCullough she had ceased to practice law.

Take Mrs. Ahrens, a dignified woman, who has received the respect of the bench and bar.

Miss Cora B. Hirtzel has occupied the office of Assistant Corporation Counsel and has performed all of the duties with ability—signal ability.

Of course, the principle has long since been exploded that, so far as mental ability is concerned, women are not the equals of men.

I became much more closely acquainted with a Miss Reynolds and several others that I could name. Out of all of them that I have known in Chicago, I think there is but one against whom even a breath of scandal was ever raised, and I do not believe there was any foundation even for that.

So my observation and contact with a number of women assure me that our profession is one which may justly and properly be opened to them. And, in fact, I am happy to state the other side of the proposition, that we may congratulate ourselves, so far as my observation goes, upon the fact that the respect and forbearance and the assistance of the lawyers has been a subject of self-congratulation to the women, and we may congratulate ourselves, I think, that the bar has always treated women lawyers with the greatest respect.

Clarence D. Ashley, of New York :

I would like to add a few words in regard to women students in law schools. I am frequently asked what the women's law class in New York is. The women's law class is not a class for the education of lawyers. It was established to give women an idea of the general principles of law. For instance, it is a good thing for a woman to know what is meant by a power of attorney, by a deed, and so on. There has never been any attempt in that class to train women as lawyers. Our Law Faculty of the University believe in and encourage the class, but it forms no part of our law work. It is just as well on this subject to have such points clear, because if we are looking into the matter we might as well know what is being done all over the country. That particular course, then, does not lead to a degree and does not make lawyers, and we give no credit for it in the law school. But in our law school itself we heartily welcome women. We have perhaps thirty women out of six hundred and fifty students. The record which they have made has convinced all of us that women should cer-

tainly be allowed the opportunity to study law. After that, as has been well said, it is for woman herself to say whether she shall practice or not. I never attempt to advise on that point. Many of our young women have succeeded. I remember one special instance in which a woman just out of a law school was employed as counsel for her father, as associate of a practicing lawyer of many years standing. She herself took charge of the cross-examination, with the most successful results.

There is no question that women are thoroughly able to practice law. They themselves will work out the problem, and they are doing it in New York to-day. Many women study law for the mental culture that they derive from it. They do not ask any favors and they do not receive any, but they do good work, and they do raise the tone of the profession. I can speak both as a practicing lawyer for many years and from my experience in the law school. I believe that any lawyer of experience who will watch the women in New York will bear witness with me when I say that we should open every door to them and let them decide for themselves whether they will practice law. I do not think any woman is going to lose one particle of that which we respect in women by becoming a member of our profession. I would be even so bold as to differ from the very able advocate whom we have heard and say that my experience is that it would be a good thing for married women to practice. I have seen many such instances. Only last year a bright little woman went out of the law school, and the result is that she and her husband are both practicing law successfully together. It does not interfere with their household happiness at all. I will venture to say that this gentleman, and he is a strong lawyer, would very heartily advocate the custom of married women practicing law. I think the time has come for us to back up this woman's movement in the study of law. If they want to study law, let them do it. I have been looking into this question for a number of years and although at first I did not believe in it, I am convinced now that it is the

proper course to pursue. It gave me a little shock at first to see or to think of a woman practicing law. To-day, however, they have won their way, and I am satisfied that we as lawyers should encourage the study of law by women and throw no obstacle in their way; I predict that our profession will be stronger and better if we take that position.

Miss Minnie K. Liebhardt, of Colorado:

Not being a member of this Association, gentlemen, it is with considerable diffidence that I rise to say anything at all, and I have refrained from taking part in the discussion for that reason; but, as a member of the Denver bar, I do desire to express my high appreciation of the very able paper presented by Professor Rogers, and also of the discussion which has followed it, and of the fact that this Section of Legal Education is in sympathy with the study of law and the practice of law by women.

The following gentlemen were named as a Committee to nominate officers of the Section for the ensuing year:

C. C. Cole, of Iowa.

James P. Hall, of California.

G. A. Manly, of Colorado.

S. C. Bennett, of Massachusetts.

Burton Smith, of Georgia.

The Section then adjourned to Friday, August 23, 1901, at 3 o'clock P. M.

#### FRIDAY.

*August 23, 1901, 3 o'clock P. M.*

The Chairman:

Is the Committee on Nominations ready to report?

C. C. Cole, of Iowa:

The Committee on Nominations has learned with much regret that George M. Sharp, of Baltimore, Maryland, who

has rendered such efficient service in connection with the Secretaryship of the Section, desires to be relieved from further service therein. In view of the very efficient and eminently satisfactory service of Judge Sharp, your Committee feels authorized to report the following resolution:

*Resolved*, That the Section of Legal Education of the American Bar Association desire to express their very deep sense of gratitude to George M. Sharp, of Baltimore, for his very efficient, satisfactory and long continued service as Secretary of the Section; and to express their sincere regret that he feels constrained to decline further service therein.

On behalf of the Committee we nominate Ernest W. Hutfcut, of New York, as Chairman, and Charles M. Hepburn, of Ohio, as Secretary.

The officers nominated were unanimously elected.

The Chairman :

The next business in order is the presentation of a paper by Clarence D. Ashley, of New York University, entitled "Legal Education and Preparation Therefor;" but with the permission of Mr. Ashley, we will first listen to the paper of Professor Nathan Abbott, of the Leland Stanford, Jr., University, on the subject of "Undergraduate Study of Law," which was on our programme for yesterday, but was not received until this morning.

The paper was then read.

*(The Paper follows these Minutes.)*

The Chairman :

We shall now have the pleasure of listening to Professor Ashley's paper.

Clarence D. Ashley then read his paper.

*(The Paper follows these Minutes.)*

The Chairman :

The subject of the next paper is, "The Graduating Examination in the Law School," and upon that we shall have the

pleasure of hearing Professor Raleigh C. Minor, of the University of Virginia.

Raleigh C. Minor then read his paper.

*(The Paper follows these Minutes.)*

The Chairman :

The papers to which we have listened this afternoon are now open for discussion.

Emlin McClain, of Iowa :

One noticable feature of these three papers, if I may speak of them together, is this : That each paper indicates the belief of the writer that the making of a good lawyer is the highest aim of a law school. The critics of law schools have sometimes expressed a doubt about this being the real object aimed at, but I trust that the voice of these three papers will be conclusive that law school men look to the making of a good lawyer as the highest result to be attained by a law school education.

Professor Minor urges a graduating examination that shall compel a review, a re-establishment of the facts of the law by review. He urges a high examination standard in order that it may be ascertained whether the student has that knowledge. I do not understand that he would have a high examination mark for the purpose of testing the student's mental gymnastics by law, or about law, but to ascertain that he knows the law.

Professor Ashley insists that it is not merely a liberal education that will prepare a man for a course of study leading him to the legal profession, but that other tests of mental ability may be found which may indicate a fitness not evidenced by an A. B. degree in a college course.

And that leads me, then, to suggest as to the question discussed in the first paper regarding the contribution of the collegiate and law courses, that it is the business of the teachers of law to look to it that nothing is done which shall impair the practical efficiency of the law course toward preparing a man to practice law. That is, perhaps, where they get into diffi-

culty with their associates in the other faculties of a university. When the question of a combined course is discussed, it is not unusual that the professors of history and sociology and kindred subjects insist that in their courses are found valuable discipline and preparation towards a knowledge of the great affairs of government, and that to some extent this work should be allowed as a substitute for some of the regular work of the law schools.

If I have correctly stated the objects of a law school, that contention on the part of the collegiate professors cannot be recognized. Their work may be valuable. No one can question that it is valuable that these studies should be pursued by those who aim to study law, but let them come by way of insistence upon the broader and better general education. Let them not come by way of bribery, consisting in the omission of some of the regular work of a law faculty. I should go so far as to say that even in subjects which seem to be common between a collegiate and a law course—such subjects, for instance, as international law and constitutional law—where the very same text book is used in each course, it would be the duty of a law teacher to insist that the law students pursue those courses of study in a law school; that they pursue them from the point of view of men who are being prepared to practice law, and not from the point of view of men who are pursuing those studies for the purpose of rounding out their general education.

Possibly what I have said would lead to the thought that any combination of collegiate and law courses is impossible; that it is not practicable in any way to unite the two. I am not sure that it is practicable, but I would suggest that if any combination is practicable—and, personally, I believe it is, without sacrificing anything in a collegiate course—this is the line on which it is to be made: That the collegiate graduates shall not be given credit for knowledge of the law or shall not be allowed to offset a lack of knowledge of the law by reason of any collegiate work they may have taken, no matter where

or how thoroughly ; that if the collegiate faculty is willing to believe that the technical study of law is as good a part of mental discipline as the technical study of fossils or stars, then they may possibly be willing that a student who is preparing himself for a law degree shall be allowed to substitute for the study of fossils or stars thorough technical work in law as a branch of social science, as thoroughly taught as any branch that is known to a college curriculum. If the college faculty should find that feasible, then this plan would not be unreasonable ; that the collegiate student, during the last year of his course, should be allowed credit for a part of the law school work as collegiate work ; that the law faculty should also be willing to give him credit for that year as a year of law study in view of his general attainments and in view of the fact that he is pursuing a course of mental discipline in another department. They would be willing to give him, perhaps, for one year, credit for law study, although he had not during that year pursued all of the law studies required of the other law students. During the second and third years of his law course he might, by reason of greater facility for the work, which he ought to have acquired if he has gained anything by a collegiate course, do more law work than most of the students who have not had so great opportunities in an educational way. Thus, by the end of his three years in the law school, he might be able to cover all the technical subjects—and every subject, I think, is technical in the law—and, at the same time, perhaps, have convinced the faculty that he was entitled to graduation from their course with the degree of Bachelor of Arts or Bachelor of Philosophy.

The Chairman :

It seems, as Chancellor McClain has intimated, that these subjects are so far related that they may well be discussed together.

James Paige, of Minnesota :

As a matter of information, I would state that in the University of Minnesota, and, I think, also in the University of



Wisconsin, the faculties at present allow credits obtained during the senior year in the colleges of law. They have become so enlightened that they are willing to recognize that mental discipline can be imparted in the study of law as well as in the study of sciences. On the other hand, if they elect, in the college of law, a certain number of topics during the first year covering contracts, torts and crimes, they may graduate after becoming students of law in two years; that is, they may shorten the three years course by one year.

We have found, for the past five years, that this has worked very successfully. I notice that our system differs in its practical results not in the least from that adopted in Stanford University, excepting that there they allow the selection to begin during the junior year, while, in our university, it is confined to the senior year. I think this is becoming quite the universal custom with state universities, having grown out of the general desire on the part of these universities to shorten, in a measure, the under-graduate courses, while, at the same time, not impairing to any extent the professional course.

With reference to the paper read by Dean Ashley, I wish to express my deep sense of gratitude in being permitted to hear such a paper, so fairly, openly and broadly meeting the great questions which have presented themselves to those of us who are located in the West and who are dealing with conditions unknown in the East. The representative of the Harvard Law School said to me yesterday that the scheme of legal education as adopted at Harvard was well adapted for some young men who presented themselves, but not for all; that, though they might have entered under a college diploma, they were not capable of doing the work. Dean Ashley has presented the fact that the evidence of a man's fitness to enter upon the study of law cannot be only that he holds a college diploma; that there are other conditions and circumstances which may have influenced his life, adequately preparing him for the study of law. In testimony of that fact I want to give you what, I believe, is the experience of other North-

western colleges of law as well as that of my own. We have made the standard of admission the high school diploma—the same standard of entrance to the law school as that required for entrance to the university. Still, we have found that a great many men who have reached the age of twenty-three, or twenty-four, or twenty-five years, having engaged for years in real estate, banking, or manufacturing business, the course of their education being interrupted in early life, have come to us and taken a course in law, and, in a great many instances, have maintained a much higher record as students than those who have entered from some of the Eastern universities, or even from our own university. Some of these men have gone out to practice in St. Paul and at our own bar, and have secured a clientage far larger than that of many men who came to us fully prepared, holding a university diploma. So that I believe there is abundant evidence coming from these schools that, while their standards of entrance should be raised even higher than they are now, still the time has not yet come when we can place it at the university diploma, and even if it was placed there in these Western commonwealths, other qualifications would have to be taken into consideration or injustice would be done the bar of these states, as they would be deprived of some of their very strongest men.

V. H. Lane, of Michigan :

Possibly I ought to keep my seat in view of the fact that I am attending my first meeting of this Section, but I was struck by one thing in one of the papers—and let me say that I feel that I have derived great good from all of these papers—as to which I do desire to say just a word or two. It seems to be assumed by most of us as we speak here that the business of the law school is to prepare a person for the practice of the law. If that be true, its diploma ought to indicate that we have fitted the student for his work in that field. It would seem to me quite logical then that we ought to be doing those things for the student who takes our diploma which would fit him for the practice of law, or, in other words, that the

diploma ought to count for a little something more than mere knowledge of the principles of law. I think there is room in the law for something of the laboratory method, and, to some extent, we are doing a portion of that work in the school which I serve. I am very certain, indeed, that it is being done with great profit to the students who attend our school. The universal testimony, I am very sure—I can almost say without a single exception—is that it is a great help to the entrance of students upon the practice of law. I can see how, if a man is going into an office after he leaves the law school to get his training there for the practice of law in those practical things which every lawyer must learn by practice, or else he does not learn them at all well, we might do away with this; but, particularly in our schools throughout the west, students come there who never expect to get into a lawyer's office to learn these things; they expect to start in the practice of law for themselves immediately upon graduation. Now, as I have said, we are aiming to serve our students in this way, and I think with profit. It seems to me that the diploma of the law school may speak for something else than mere knowledge of legal principles.

E. W. Huffcutt:

Judge Lane, of the Michigan University, has very well said something that I had it in my mind to give utterance to, because I thought that, in the very admirable address of Dean Ashley, some serious doubt was expressed as to whether the law schools do, with profit, any of the work of the law offices; or, to put it in another way, whether they succeed in training students so that they may, on leaving the law school, take up with intelligence the practical work of the law office. Now, I have no such doubts myself, and I am very glad to hear from Judge Lane that at the institution where, I believe, more has been done than at any other institution in the country to train a student so that he may take up at once the practical work of the law office, the experience of those who have charge of the experiment is such as to warrant its continuance and to justify

its existence. So deeply have we been impressed with the necessity of providing the student with some equipment of this sort that, at the school which I have the honor to represent, we have required the student during the past three years to take, continuously during his three years course, constant work in practice, and not only one professor, but an assistant as well, devote their entire time to the teaching of that subject and to the examination of the voluminous papers that come in from the students in the prosecution of that teaching; and, while our experience has not been so extended as that of the University of Michigan, yet, during the limited time that we have had the experiment working, we have become convinced of its value and of the necessity for its continuance.

I wish, moreover, to add a word with reference to the very interesting question raised in the paper by Prof. Abbott. During fourteen years—in fact, during its entire existence—the school which I represent has permitted juniors and seniors in good standing in the academic department to elect work in the school of law—amounting in all to one year of law school work—and the faculty of arts and sciences has permitted this one year of law work to count towards the Bachelor's degree in arts or philosophy. The result has been that we have had a somewhat extended experience with this particular form of under-graduate study of law, and, during the past year, out of some two hundred and fifty students who were in our law classes, over sixty were juniors and seniors in the academic department of the university. We have had our attention directed from time to time to comparisons that might be instituted between the particular and the average standing of these juniors and seniors of the academic department and the particular and average standing of students who had entered on their high school diplomas, and also students who had entered on their collegiate degree. We have, then, had a basis of comparison among three classes of students: The high school graduate, the collegiate graduate and the junior and senior in the academic department of the university;

and, while the particular form of grading adopted by us does not permit an accurate statement of the results, I think the faculty is entirely agreed upon these two propositions: In the first place, that the highest average of work done is by juniors and seniors in the academic department of the university and by college graduates, but that the leadership of classes is rarely among these but is usually found among those who have entered simply upon their high school graduation. Of course, that is a somewhat larger class than either of the other two and the chances of finding the picked men may be greater; but, whatever the reason, the fact remains that the picked men of the first year classes have, with rare exceptions, been men who not only have had no collegiate degree, but who have not had even the first two years of a collegiate course—simply high school graduates who have entered the law school directly from the high school. On the other hand, it must be remembered that that class of students has not the highest average work, but that the highest average work is to be found among the juniors and seniors of the academic department and the college graduates. As between the latter, there seems to be little to choose, and it may well be doubted whether the college graduate is appreciably better fitted for the study of law than the college student who has completed the disciplinary work of the first two years of his college course.

Our experience has left no doubt, therefore, in our minds that, so far as the law school is concerned, not only no harm can come from admitting juniors and seniors of the academic department, but that a distinct advantage to the school and to the men ensues from that course of procedure. Doubts have indeed been expressed at our university by members of the academic faculty whether, from their point of view, it was wise to permit their students to elect subjects in law, because, it is said, the attention of the junior or senior who is electing law courses is mainly directed towards his law studies and is drawn away from his academic studies.

Experience has left us, as I say, no reasonable doubt that it is wise for us to encourage the admission of such students to the law courses, and this we do not regard as in any way cutting down the period of time required by us for the study of law, but we do regard it as cutting down the period of time required of academic students for their degree, or, at least, the period of time demanded of them in what are ordinarily termed academic subjects, thereby accomplishing indirectly that which President Eliot, of Harvard, and other educators have sought to accomplish directly.

Joseph H. Beale, Jr., of Massachusetts :

Professor Abbott, with very characteristic modesty, has, I think, given much more weight to our experience at Harvard in the matter of undergraduates in the law school than it ought to have in comparison with the other law schools, representatives of which have spoken on this subject. We have had rather a peculiar condition of affairs in this respect. The men who have come to our law school from the college without having finished their college work for the degree of A. B. have retained all their interests in the college, although nominally they were registered in the law school. Harvard College reckons graduation, as has been said, by courses rather than by time; but though the college has come to that basis, the students have not; they still reckon the collegiate course as four years, and, of course, every student wishes to remain with his class during the entire four years. Therefore, although registered in the law school in the last of his four years, his interest remains with his fellows still in the college; he is full of the social and athletic interests of the college undergraduate, and he does not give his whole heart to the law school. Now we demand of our students who are to do good work their undivided attention to law, and we have found, by an experience which seems to us conclusive, that we do not get such attention from these men. I have no doubt that conditions are entirely different in other places, and that our experience should not greatly count. We should be very glad, on the other hand,

to have students, at the end of their third year of college, come over entirely into the law school and pursue all of the studies of our first year and no undergraduate studies, and, at the end of that first year, get their degree of A. B.; in other words, we should be very ready to have our courses count towards the degree in arts as well as towards the degree in law; but the faculty of arts and sciences will not permit that, and as a result of the deadlock between the faculties on this point, we have been obliged to refuse to receive a student unless he either has already obtained his degree of A. B. or has done all the work necessary to obtain that degree, though he may have postponed taking it for another year.

This fact that local conditions must necessarily modify any general statement, was borne in on me in another way in the course of Professor Minor's admirable paper. His plea for a higher standard at examination for graduation was one with which I heartily concur, but when he comes to fix the number of points to be attained for that high standard, I fear we should differ. I notice that the lowest percentage he mentioned as required for passing the examination was that of the law school that I represent. We require only 55 per cent. for the passing mark. One law school, the University of Virginia, requires more than 80 per cent. for the passing mark. If that mark was required in the Harvard law school, almost all of the two hundred and eighty members of our first year class would have been dropped out of the school, because, as it happens this year, only one man attained a higher average than 82 per cent. I do not believe that indicates that all our men did poor work, but simply that in marking examinations we do not use numbers in the same sense. A fairer test, it seems to me—fairer than any except the ultimate test of success of graduates—would be to see how large a proportion of any class succeed in obtaining the degree of the school. That test Professor Minor's institution can meet as well as any in the country, but under our low standard of 55 per cent. we drop a large number of our first year class—

forty this year. In other words, forty members were unable to reach that standard, low as it might seem to those accustomed to other systems of marking. The class numbered two hundred and eighty odd. In meeting together from all over the country, we must remember that our local conditions differ greatly, and we must be a little easy with one another's statements, both of our required standard and of our principles of education in general.

H. N. Ogden, of Illinois :

I would like to inquire of the speaker who just yielded the floor what percentage of students drop out in the senior test at Harvard, and whether any attempt is made to re-examine upon the work of the first or second year ?

J. H. Beale, Jr. :

If a man is dropped for failure to pass four out of five subjects each year, he can re-enter the school only upon being re-examined at the end of another year, and attaining a still higher percentage in all these subjects. A man, therefore, who is dropped out practically never gets back again. The number of those dropped out at the end of the senior year is of course less, because—believing that poor men ought to be weeded out as early as possible in justice to them as well as to the school—we try to inform them that they are not well fitted for the study of law at the end of their first year. This year, the number dropped out in the second year was fifteen and the number who failed to get their degree was nine. Only about six per cent. of the third year class failed to get a degree, but a very much larger percentage of the other classes were dropped. I, perhaps, ought to say that this is simply the number that would be dropped according to the returns. In case illness prevents a man from passing his examination, we, of course, always give him another chance. That is an unwritten exception to our general rule. Some of the fifty-five dropped will, therefore, be permitted to return.



Simeon E. Baldwin, of Connecticut:

I desire to say simply a word in relation to what Professor Beale has observed with reference to the point presented in the paper of Professor Minor as to having a certain high mark of attainment as a necessary pre-requisite to a degree or to passing from one class to another. It seems to me, as he has suggested, that really in marking a paper, whatever we call our mark, we necessarily have in mind as the main thing: Has this man done sufficiently well to be marked as passed? That judgment may be expressed by the percentage mark of 50, 55, 75, 80, but, whatever that arbitrary sign is, it soon becomes an arbitrary sign with reference to the marking of the majority of students. It seems to me, therefore, immaterial whether the passing mark is 50 or 80. Whatever it is, if the examination is sensibly conducted, it will result naturally and necessarily in allowing the majority of any class that has been properly taught to pass.

And to secure mathematical accuracy to a decimal point in the examination of papers by a single teacher seems to me also almost impossible. It is, of course, a very mechanical mode of marking an examination paper to assign an equal value to each answer and to mark a wrong answer necessarily as an entire failure. If the method is pursued, which, I think, most of us prefer, of putting practical questions, as they have been termed to-day, calling, not simply for knowledge, but for the exercise of the reasoning power, and intended to show that the reasoning power is employed and to a purpose, it is not of any very great consequence in making up our mind as to the merits of that answer, whether the conclusion was right or not. If the foundation principle from which the student proceeded was right, and if his processes are logical, although they may come out in a direction different from that which the courts have reached, or which some court or some author has reached, we should give him about the same credit as if his reasoning had led him in the other direction. Therefore, for that reason also, there must be in marking any paper a general

impression, which, after all, must govern the final mark, and whether that impression is to be expressed by the figure 83 or 73 or 53 seems to me of comparatively little moment.

R. M. Bashford, of Wisconsin :

I should like to ask Judge Baldwin if he himself personally reads every examination paper of his class ?

S. E. Baldwin :

Of my own students, yes.

R. M. Bashford :

Professor Huffcut, I would like to ask you that question ?

E. W. Huffcut :

Yes, invariably.

R. M. Bashford :

And you, Professor Beale ?

J. H. Beale, Jr. :

Always.

R. M. Bashford :

How do you find time, with a class of two hundred and eighty, to read all of those papers, pass upon them and mark them intelligently in connection with your other work ?

E. W. Huffcut :

Speaking for myself, I would say that our examination papers usually consist of about ten questions. I manage, by diligent work, to get through all the papers without unreasonably taxing my physical or mental powers.

R. M. Bashford :

I am not a full professor in a law school ; I devote one day a week only to the law classes, but I have found that the most disagreeable part of the work is reading the examination papers. I teach different topics with each class, and I submit at least twenty questions with many subdivisions upon each topic. I have found the work so disagreeable that I refused to read examination papers for the junior and middle classes at all, except in doubtful cases, and I have turned over those papers

to advanced students in the senior year. The senior papers I am obliged to read. I do think that you gentlemen who are giving your time to this subject ought to unite in abolishing much of this disagreeable work which is found in the law school. The sole object of your examination is to test the student's ability for a degree. You may do it for another reason, but if the student meets that test, you pass him; of course the review is essential. and that may be had without a written examination. But after a student has passed into the senior year and has demonstrated his ability to go on with the work, and maintains his standing by daily recitations, I can see no just ground for a written examination of that student during that year. Of course, there may be students so close to the line that you must test their knowledge. I assume that in all colleges the weak students are weeded out, if possible, in the junior year—certainly in the middle year—and when a student reaches the senior year, unless he gives way to indifference or indulgences and fails to maintain his class standing, he ought to be graduated without any further examination, in my opinion; and if that rule were adopted and the examination papers in the first and second years turned over to the advanced students in the senior year, the members of the faculty would be relieved of a large amount of arduous and disagreeable work.

A reference was made to the undergraduate work in the University of Wisconsin. When the course was changed from two to three years, the regents provided that students in the senior year in the academic course might take five hours a week in the law school. Now, that work does not count as one year in the law school. A student going into the law school may elect any work he sees fit, but he receives credit for only the work he does, and he has to make up the remainder of the work. We experienced the difficulty that Professor Huffcut referred to at Cornell. The students themselves say that they receive better discipline in the law school than in the academic course, and the professors in the academic course say that by reason of the fact that the students are pursuing

professional studies, their interest in academic studies is lessened. As a consequence, a decided sentiment of hostility has been aroused among the professors in the academic schools against this six-fifths course, as it has been called, and they use their best efforts to keep undergraduates out of the law class. I think this is a great mistake on their part. I think students ought to be encouraged to come in from the undergraduate class into the law class.

I endorse what has been said in regard to the qualifications for admission. I do not regard an A. B. degree as an essential requirement. On the other hand, my observation is that college graduates, as a rule, maintain the best standing in a law class.

G. L. Reinhard, of Indiana :

I have been very much interested in the discussion this afternoon, and I must say that I have been instructed in many things. I was especially interested in the excellent paper of Professor Minor, and I was really surprised that a school of as high standing as the law school of the University of Virginia, and of as great a reputation as that school has attained, should lay so much stress upon the subject of final examinations, and especially the matter of the grade to be attained by the student for passing that examination.

In many respects I agree with what has been said by the gentleman who last occupied the floor, as to the minor importance, if not absolute valuelessness, of examinations. I do not wish to be understood, however, as advocating the abolition of examinations entirely. Of course, one of the purposes of a final examination, as we have heard, is to test the knowledge of the student so as to ascertain whether or not he is fit to be sent out into the world as a graduate of your institution and with its endorsement. Another object is, as was stated in the paper, that of review, so as to impress upon the student more enduringly the things he has learned during his course in the law school. That, I think, is a good purpose. But as to the utility of the ordinary examination for the purpose of testing

the ability of the student to go into the world and practice law, I think the only beneficial object there can be in that is to furnish the instructor an excuse for refusing to pass the student, if he is known to be weak or unfit. In other words, if I have taught a student for a period of three years, I certainly ought to know fairly well at the end of the third year whether or not that student is qualified to pass in the subjects in which he has been taught by me without any examination. There are some, as a matter of course, who ought not to pass at all, and there are others as to whom the question is doubtful. As to the doubtful ones, or those who ought not to pass, I think an examination is useful in that it furnishes the professor the written evidence for refusing to pass the student, and for that purpose I think an examination is well enough. You cannot well exempt a good student from examination, because that would be making a discrimination, and perhaps have a bad result in the class room, and so examinations are required for all. But, after an experience in the law school, not as long as some of the gentlemen here, perhaps, I am of the opinion that examinations are valuable chiefly for that purpose—that is, for the purpose of furnishing the instructor some tangible evidence upon which to base a refusal to graduate or pass a poor student. Of course, you could do it in another way; you could say to the student, “I am satisfied from your work that you ought not to pass,” but that might not be as satisfactory a way as where you can have the evidence in your own hands. What I have said, however, will not apply, perhaps, to all methods of instruction.

One word upon the subject of the practice work, as it has been called, in the law school. We have, ever since I have been connected with the law school of the University of Indiana, pursued much the same course that the gentleman from Michigan has stated has been followed there. We find that it is satisfactory and beneficial to the student and that good results have followed it. It is doubtless well known to the gentlemen here, as it is to lawyers generally,—and this was

brought out yesterday in the discussion of one of the papers,—that a large number of the cases that are either reversed or affirmed by the courts of last resort turn upon some question of practice. A case may be affirmed because the attorney who conducted it did not know how to write a bill of exceptions or how to prepare his case for an appeal; and it may be reversed because of some error of practice during the trial. So that our experience in Indiana has been—and we have a very liberal code, I may say, and one which has been very liberally interpreted—that the majority of the cases are either affirmed or reversed upon some question of practice, though, I believe, the number is growing smaller. If that be true, it must be because many lawyers who practice at the bar have not had sufficient training in the questions of practice. This, as far as possible, ought to be corrected in the law schools. It is sometimes urged that the law school is not a good place to train a lawyer for the practice work of his profession; that is to say, if he learns the substantive law in the law school, it will be time enough for him to learn the practice when he comes before the court, and that it is not possible to teach practice satisfactorily in the law school. Now, I must say that our experience has been different. We can teach the student how to prepare his pleadings and guard his points in ordinary cases, at least; of course, we could not do it in every case that may arise in his practice. We can teach him how to prepare a bill of exceptions and to make assignments of errors in the Supreme Court and to write briefs, and we can teach him the essentials of the practice at *nisi prius*. If that be true, although we cannot anticipate all the technical points that may arise in his experience and practice, yet, if he learn the main rules, it certainly does seem that a large amount of good has been achieved. So I would say, in harmony with the sentiment that has been expressed here this afternoon, that it is eminently desirable and important to teach the subject of practice in the law school.

The Chairman :

Is there any other business? There does not seem to be any.

Gentlemen, I congratulate you upon the successful session of the Section which is about to close and from which you are about to go back to resume those philanthropic duties which will no doubt result in making the law in practice, as it is in its nature, more and more the highest and the noblest of all sciences.

It is a great privilege to sit at the feet of Gamaliel, but to preside over a congress of Gamaliels is an honor beyond my power of acknowledgment. I sincerely thank you, and declare this session closed.

Adjourned *sine die*.

JAMES PARKER HALL,

*Secretary pro tempore.*

# THE UNDERGRADUATE STUDY OF LAW.

BY

NATHAN ABBOTT,

OF LELAND STANFORD JUNIOR UNIVERSITY.

The study of law in college for professional purposes or as part of the education of the citizen or of the student of history and economics has been in operation in this country to an increasing extent for the past twenty-five years. There is still a wide difference of opinion as to the profit from such study.

The subject in one aspect or another has been presented to this Section at previous sessions and has been treated in numerous reports, papers and addresses. To get the personal opinion of teachers of law as to some phases of the matter, I sent inquiries to one or more teachers in each law school in the United States. One who has read the printed material above referred to and the reports of the presidents of our colleges and universities and the answers to these inquiries, is impressed with the difficulties of the subject and the positive disagreement as to the best way to settle them.

This is not merely a matter of importance to the law school and to the lawyer. The moment the law school comes into organic relation with the college, it affects the whole scheme of education. We are called on to treat with the college and even the secondary school, and must look at the matter from the academic as well as the professional side. How to adjust the interests of the student, according to the ideas of the college professor, on the one hand, and the teacher of law, on the other, is still an open question in most institutions of learning.

It seems to me it will be useful to see how the matter has been treated by one or two universities which have given to it a thorough consideration and arrived at perhaps a final con-



clusion. It will be best, for my purpose, to give a statement in as much detail as the limits of this paper will permit, under the belief that the method pursued in one university is likely to be suggestive as to the method best suited to another.

So far as I have been able to find, the most complete narrative of the progress of university policy on this subject is contained in the publications of Harvard University. That institution has also such policy in the most definite shape.

It is difficult for one who is not familiar with Harvard to give full value to what is found in the college publications. There is to be read into such publications a college understanding of them which comes, like public opinion, from chance talk in cars, or at dinners, or in walks across the college yard, quite as much as from deliberate discussion and written statements. It is also difficult to appreciate the true relation of the Harvard Law School to the changes in the University at large during the past thirty years. One must take into account the effect of the elective system which has transformed the theory of education in college from one based upon four years' study to one based upon departments and courses. Again, it is necessary to recognize that the Harvard Law School was going through a transformation, not only as to the theory of study, but in actual formal details. The successive stages of improvement of a law school seem to be: First, improved entrance requirements; second, lengthening the period of study; third, increased stringency of examination on topics studied; fourth, connection of the law school with the organic life of the college by requiring applicants for admission to present an A.B. or equivalent degree. The Harvard Law School has gone through all four stages and its history during its progress should be of value to any law school in America as a guide to the working out of the problems concerned. The study of such a concrete case cannot fail to be of service to those who do not believe in leaving things to a blind process of evolution.

In 1877-8, the law school made the first two improvements referred to, at one step, with the result that attendance immedi-

ately fell off. The third, or newly-added year, does not seem to have been well attended. The medical school seems to have increased its course from three to four years about this time,<sup>1</sup> and in speaking of that in his report as long ago as 1883-4 (pp. 36, 37), the President said: " \* \* \* the faculty would be much aided in their endeavor to prolong the course of medical instruction to four years if the college proper could reduce the time ordinarily spent in obtaining the degree of Bachelor of Arts from four years to three \* \* \*. Parents complain that their sons who spend four years in the school are not ready to practice before they are twenty-six or twenty-seven years old. Since the medical course is too short at the best, time must be saved, if anywhere, upon the school course and the college course. If young men were ready for college at eighteen, and obtained the degree of Bachelor of Arts at twenty-one, they would be ready to practice medicine at twenty-five, or twenty-six at the latest.

"The law school feels the same difficulty. Indeed, since thorough professional training becomes more and more important to success in the learned professions, the time devoted to professional study will probably reach at least the European limit of five years. Under such conditions the degree of Bachelor of Arts might cease to be taken by candidates for the learned professions unless it could be obtained earlier than now."

Seeing the slowness with which the fourth year of the medical school gained students, and recognizing the evil pointed out by the President, the faculty of the medical school in June, 1886, laid before the Academic Council "a plan for the abridgment of the college course by those students who go from college directly into one of the professional schools of the university." (Rept. 1885-6, p. 14.) After more than a year's consideration, December 6, 1887, the Academic Council voted: "That with a view to lower the average age at which Bachelors of Arts of Harvard College can enter professional

<sup>1</sup>See also Report Pres. Har. Col., 1892-3, pp. 32, 33, 145.

schools and the graduate department, the college faculty be requested to consider the expediency of a reduction of the college course." Commenting upon this in his report, December, 1888, the Dean of the College said: "The subject requires the fullest and most careful consideration, which must embrace, not only the college course, but the whole training of the student from the time he first goes to school. That a properly systematized preparatory course would bring the young man to the doors of the college at a considerably earlier age than his nineteenth year is hardly open to question. The fault, it must be said, is not chiefly in the secondary schools, but lower down, and hence not within the reach of such influences as the college can exert directly. Still there is a strong conviction in the minds of many who have given the matter their attention that a higher stage of preparation could and would be reached by the schools if adequate inducements were offered to the pupil, and that, therefore, if the age of graduation is to be lowered, as the council proposes, the loss of time need not be to the same extent a sacrifice of training." (Rept. for 1887-8, p. 81.)

The questions involved, which are common to all institutions of learning, wherever they may be raised, are clearly stated in the report of the Dean of the College, which was made December 1, 1890. This was after the subject had been under discussion in the university for several years, and is likely to present the issues as clearly as they could be put. The Dean says: "The immediate question, then, is of the proper adjustment of the college course to the graduate course and to the professional school. But the consideration of it necessarily takes a wider range, for the whole scheme of liberal education is involved. If the college course is no longer to be the final stage of liberal culture, we are at once brought face to face with some important questions. Is the traditional form of the college course well adapted to its new relations? Is four years the best period of a college course under the new conditions in which it is obviously advantageous to foster the higher

studies, not only for their own sake, but for the benefit of those less advanced? Is the high standard of the Bachelor's degree, to which it was pushed at a time when these higher studies were not contemplated, a hindrance to their development? Is it an infringement on the just claims of professional study? If the standard of the baccalaureate is undesirably high, how can it be most advantageously lowered—by reducing the requirements for admission or by reducing the college course? If the latter, what amount of reduction is expedient, and in what form and under what conditions should it be made?" (Report 1889-90, pp. 103, 104.)

This statement presents the matter clearly, suggests the cause of trouble, and two remedies—either to reduce the entrance requirements or to reduce the college course. It was the latter alternative that was suggested by the vote of December 6, 1887, and which was under consideration by the college faculty until March 26, 1890, when it submitted to the President and Fellows a proposition to facilitate the attainment of the degree in less than four years. The faculty stood 34 to 22 at the time the proposition was adopted. The President and Fellows approved the proposition and transmitted it to the Board of Overseers, who submitted it to a committee which six months later made a partially adverse report. The Overseers invited the faculty to state their reasons for or against the proposition, and both sides transmitted printed statements. The faculty was now divided 34 to 28. Finally the Board of Overseers refused its consent to the proposition as submitted. "The final votes in that board were passed by large majorities, and made it clear that measures on this subject must commend themselves to the judgment of a large majority of the teachers of the university before they can be accepted by the Board of Overseers." (Report of President, 1890-91, p. 9.)

The exact composition of the Board of Overseers which decided adversely to the proposition of the faculty I do not know. The list of members during the years 1890-1895 contains a large proportion of lawyers and doctors, among the

former being several honored members of this Association. It would be interesting to know the exact votes by the members of these professions.

In his report for 1898-9 the President refers to the proposition of the faculty and its rejection by the Overseers and adds, "It now appears that the number of courses required for the degree of Bachelor of Arts has been progressively diminished of late years as the result of several votes adopted by the faculty for various reasons which had no immediate bearing on the policy of giving the degree of Bachelor of Arts in three years instead of four." The changes were in shortening the course in chemistry and English and putting back into the preparatory school a part of the English course. "These changes, made by the faculty without the slightest reference to the three years' course for the A.B. degree, clearly facilitate the obtaining of the Bachelor's degree in three years; but they do not lower in the least the standard of the degree. The common attainment of the degree of Bachelor of Arts in three years is certainly approaching. Any young man of fair abilities can now procure the degree in three years without hurry or overwork, if he wishes to do so, or if his parents wish to have him.\* \* \* Within a time comparatively short the majority of those who enter the freshman class will come to college with the purpose of completing the requirement for the degree in three years. The movement will be promoted by the opposition of the law faculty to the admission to that school of college seniors who have not absolutely completed the requirements for the A.B. degree. It is, of course, desirable that the requirements for the A.B. degree should have been fully met before the student enters a graduate department of the University." (Report, 1898-9, pp. 9, 10, 11, 12.)

This is the history of the effort of Harvard College to coöperate with the professional schools. In brief, it may be said that at Harvard, as a result of the elective system, work for the bachelor's degree is measured by courses rather than

years, and that a diligent student can pass the necessary courses for a degree in three years work. If he obtain *cum laude* rank or higher, he may receive his degree at the end of three years; otherwise it is conferred at the end of the fourth year when his class graduates.

Let us now turn to the law school. As I have said, in 1877-8, it made improved entrance requirements and increased its course from two to three years. The third and fourth stages remain to be spoken of.<sup>1</sup> The third stage of progress was the rule that "no student who fails in any year to pass an examination in at least three subjects will be permitted to return to the school in the following year." (Rept., 1891-2, p. 123.) The fourth stage concerns the bachelor's degree and requires more detailed statement. It was made by a rule that, after the year 1895-6, no person should be admitted as a regular student except (1) Bachelors of Arts, Literature, Philosophy or Science from some one of 106 institutions named, and (2) persons qualified to enter the senior class of Harvard College. The number of each institutions has always been variable. Special students were, in certain cases, admitted on examination.

The second clause, as to Harvard seniors, is the only one we need to consider in this connection. It specially concerns a branch of the subject, and the experience at Harvard will throw light upon it. One solution of the time-saving problem is to allow college students in their senior year to study law as part of the college course. Whatever may be the value of this to non-professional students, the experience at Harvard is worthy of note. For several years it existed there to a considerable extent. Of it the Dean of the Law School wrote in 1893. After referring to the efforts to reduce the course in the college, which enabled some to enter the school in three years, he added: "But it enables a much larger number to complete the course in less than four years without enabling them to complete it in three years; and in this way

<sup>1</sup> See Rept. Pres. Harv. Col., 1893-4, bottom p. 131.

it has a mischievous effect upon the law school, which greatly overbalances its good effect. \* \* \* If a student enters the law school before he has finished his work in college, the law school fails to get from him three full years of work. If, on the other hand, while remaining in college four years, he gains advanced standing in the law school during his four years in college, the law school not only fails to get from him three full years of work, but also loses a full year of residence and a full year's tuition fee."

Two years later (Report, 1894-5, p. 94), the Dean of the College said: "This division of work between the college and a professional school commits the student to a nearly impossible service of two masters." In his report for the year 1896-7, the Dean of the Law School said of these seniors on leave of absence: "These seniors have not made a good record in the law school. \* \* \* It would be for the true interest of the men, as well as for the good of the law school, if the practice of granting furloughs should be discontinued except in the case of seniors who have completed their eighteen courses." (P. 161). Two years later we read: "The law examinations of last June demonstrated once more what has been found in each of the five years preceding, namely, that the law work of Harvard seniors, who had not completed their college work, was inferior not only to that of Harvard graduates, but also to that of the school at large. Fortunately, this deplorable experience will not be repeated after June, 1900, for, by a recent vote of the Law Faculty, the rule admitting as regular students 'persons qualified to enter the senior class of Harvard College' was abolished." (P. 174).

The result at the Harvard Law School of the question seems to be that the school does not recognize undergraduate study of law, but requires a bachelor's degree as a condition for entry, which degree *can* be obtained at Cambridge in three years.

This statement of the questions involved in the undergraduate study of law, and how they have been answered at Cam-

bridge, has been given in full and, so far as possible, in the words of the university officials, for two reasons. It is submitted that the questions raised are full of difficulties. Different interests are concerned; interests protected by those who hold decided and, in some cases, adverse views. This is true of probably every institution where the question has arisen or will rise. The method in which the subject was treated at Harvard is full of suggestions. The diverse interests were represented on the inside and the Board of Overseers discussed the subject on the outside. All parties concerned had an opportunity to be heard, and the discussion was continued until every phase of it was considered.

It is usually said that a college faculty is conservative beyond reason. Perhaps the elective system at Harvard has had a tendency to correct ultra-conservatism. At all events it was not the faculty, but the Board of Overseers, composed of business and professional men, that advised abiding by the ancient methods. The history of this matter at Cambridge is a fine illustration of the careful action of the true University, which is, in the American sense, a confederation of a college and professional schools, administered by men of learning and sagacity, both in and out of the institution, all being actuated by a common purpose to advance the cause of sound learning, and to that end not only acting individually, but with frequent conference, so that there is a solidarity of result that commands confidence and respect. The action of Harvard in dealing with this is a fine object lesson for any institution that contemplates the re-adjustment of the professional and college courses.

Is it probable that a similar method at other institutions would be followed by like results? It would, provided the law school or other professional schools contained the same equipment as at Harvard, but probably not if otherwise. It would be folly to expect it. The reason is plain. There is an abundance of students who are able and willing to give time and money to prepare themselves by hard study up to twenty-three



years of age, if at the end of that time there is a professional school that will give instruction that shall be a fitting end to such preparation. I do not think I violate good taste when I say that the Harvard Law School, with its faculty and library, can give to the college graduate a finish that is worthy of all the time required to gain it. On the other hand, many law schools, while offering excellent instruction, cannot yet say to the student, you must equip yourself by severe study before you undertake the work here. I do not speak of this in adverse criticism, but merely to suggest one aspect of the subject not always regarded. The requirement of the A. B. degree, in my judgment, is a sound one, if the law school can justify this demand for preparation by offering a course that will compensate for the time and effort necessary to get the degree. The prosperity of the Harvard Law School shows that there are plenty of young men in America who are willing to give their time and money to get its degree. This is an indication that there is a need of such men in American affairs, and a hopeful sign that the profession is not content with merely a technical preparation for practice. The demand for the best equipped lawyers will be more during the coming century than ever. It is not wise for any college to adopt a scheme of study that does not rest on the most careful deliberation. This Association can do much if it can be of service in bringing together the experience of other institutions and see whether we are advocating a wise policy in advocating the study of law without a severe preliminary training.

The second university that it will be profitable to consider is one of the newer and still incomplete universities. I refer to the University of Chicago.

A university founded within the past ten years has the advantage of having no traditions or customs, and can select the best features of its predecessors.

Naturally the question of the time for granting the academic degrees has been under consideration at Chicago. A plan has there been devised that is novel and strikes at the heart of the

matter. In brief, it is as follows: The work of the college is divided into two parts of two years each. After passing courses which require two year's work the student will receive a degree called the "Associate" degree. This degree will be given for work at Chicago or at any college in affiliation with the University of Chicago. As the plan is recent, I will give a description of it that is found in the report of the President of July, 1898-9:

"Upon the recommendation of the faculty of the junior colleges and of the senate, and upon the approval of the University-Congregation, the trustees have voted to confer the title or degree of Associate upon those students who finish the work of the junior colleges. The questions involved in this action have been under consideration for several years. The action in the faculty of the junior colleges and in the senate was practically unanimous; the action in the Board of Trustees was entirely unanimous.

"From the point of view of the student the following considerations have had influence in determining this action: (1) The fact, very generally recognized, that no important step is taken at the end of the preparatory course. The work of the freshman and sophomore years in most colleges differs little in content and in method from that of the last year of the academy or high school—except that it is somewhat more advanced; but, on the other hand, (2), at the end of the sophomore year a most important change occurs, according to the organization of the larger number of institutions, for it is at this point that the student is given larger liberty of choice and, at the same time, higher methods of instruction are employed. For the last two years of college work the university spirit and the university method prevail. A new era in the work of the student has begun. (3) Many students who might be courageous enough to undertake a two years college course are not able, for the lack of funds or for other reasons, to see their way clear to enter upon a four years course. Many, still further, feel that if a professional course is to be taken there

is not time for a four years college course. It is for this reason that in part our professional schools are made up so largely of non-college students. If a student who had in view ultimately the medical, or legal, or pedagogical profession could make provisions to finish a course of study at the end of two years he would be much more likely to undertake such a course than the longer four years course.

"In order, therefore, to encourage a movement in the direction thus mentioned the proposed degree has been established. It is believed that the result will be five-fold: (1) Many students will find it convenient to give up college work at the end of the sophomore year; (2) many students who would not otherwise do so, will undertake at least two years of college work; (3) the professional schools will be able to raise their standards for admission, and in any case many who desire a professional education will take the first two years of the college work; (4) many academies and high schools will be encouraged to develop higher work; (5) many colleges which have not the means to do the work of the junior and senior years will be satisfied under this arrangement to do the lower work.

"The date at which the university will begin to confer this new degree of 'Associate' has not been determined. The proposed policy has already excited some interest. It is hoped that the new plan may receive the careful consideration of other institutions interested in the same problem."

This plan has much to commend it. It leaves the matter with a clean edge. The appetite for a degree is gratified, the college teacher, knowing that the efficiency of the preparatory school and of freshman and sophomore work has been improved, may feel that the "culture" duty of the college has been discharged and specialization may begin. Under present conditions, as the elective system now extends to the preparatory schools, it would seem that the Associate degree fell little short of, in fact might easily supersede the A.B. degree, a point touched on by the President of Harvard University in a recent

report: "One of the most interesting questions concerning the tendencies of organized American education is the question relating to the future of the A.B. degree. \* \* \* This invasion of the old province of the Bachelor of Arts degree is going on in all of the advanced institutions of education at a rapid rate, and is doubtless based on changed social and industrial conditions which are quite beyond the control of those institutions. \* \* \* Thus far, Harvard has maintained the relative numerical importance of this traditional degree better than any other American institution." (Report, 1897-8, pp. 18, 19.)

The point to which undergraduate study of law has been carried in other universities has been so fully detailed by Mr. Colby and Mr. Huffcut, in their papers before this Section, that it is not necessary more than to refer to them and to the announcements of the several law schools described. The effort in these colleges is to combine the professional study with the non-professional. There is a sharply marked difference of opinion as to the wisdom of combining professional and non-professional work. It is contended that both are impaired by the alliance and the experience at Harvard for five years may be offered to support this contention. On the other hand, the opinion is quite the reverse in some other institutions. It is desirable to obtain data on this point and to know whether the law courses should run parallel with the college courses, or be studied exclusively and without competing with them. It is suggested that each college and school should keep a record of its students bearing on this point.

At the law school with which I am connected, we are beginning to keep careful records on these matters, as we are not fully decided as to the best method of undergraduate study. Although we are pleased with the system as it at present works, we do not yet feel that it has been in operation long enough to justify any positive conclusions. Our general opinion is that the undergraduate study of law, for other than professional

purposes, or on exactly the same lines as if for professional purposes, is not likely to result in definite or safe educational results. The common law is so unsystematic that any study of it as a whole for elementary purposes, we feel, is likely to be followed by little or no accurate or helpful results. Our principal point of doubt is as to the wisdom of beginning the study in the junior year. Our statistics show that the work of the juniors who are carrying two law courses is of as high a grade as that of any other law students. The Stanford University is so elastic in its method of organization that our experience is likely to be somewhat different from that of schools where the older modes of organization exist. It has been the success of the method at Stanford and at other law schools, and doubts suggested by the carefully worked-out conclusions at Harvard and the reading of the views of a number of teachers of law that led to writing a paper in this form, our purpose being to suggest doubts as to the wisdom of undergraduate study of law in order that the other side of the question may be investigated. That has not been presented before this Association. I hope the matter will be investigated by a committee of this Section or of the Association of Law Schools.

Looking over this country, in a general way, what are the agencies for the study of law? They are found in colleges, universities, so-called, and law schools. These are all independent and not actuated by a national or even general scheme of education. The most that can be said is that certain influences are contributing to that end, some of them having promise of great potency. A notable illustration can be seen in the work of various associations of teachers in this country and of this Association, which is tending to produce a uniform standard for admission to the bar throughout the United States. But there is no national scheme under some central authority to regulate the five hundred colleges, the one hundred and fifty so-called universities, and the many law schools. At most there are only tendencies, and those not always uniform or along parallel lines. There is not even a uniform scheme of

education in all of the states. The nearest approach to this is in those having state universities.

At present there is considerable uniformity of requirement for admissions to the law schools, namely, a high school education. There is a strong desire to raise this requirement to two or more years of college work. As a compromise, the time required for college and the school has been divided so as to give two or three years to college work and four or three to the school. The introduction of some law courses has led to others. There is a strong feeling that there is no suitable book for use in college either for elementary law or special topics in law; that such subjects as jurisprudence and corporation law and legal history are much more profitably studied after a complete course in a law school, or that legal history is best taken up with each topic and not as a topic by itself; that constitutional law cannot be adequately treated in the time ordinarily given to it in colleges; and, finally, it is urged that law cannot be studied while the student is occupied with other college work.

With reference to all of these points, an examination of a considerable amount of printed material and information derived by inquiries of law teachers leads me to believe there is a decided difference of opinion. If this is so, it is wise to take counsel before the law schools and colleges are committed to any definite policy. It would seem that a committee might be appointed to inquire of the colleges which have law courses, for information on these or similar points.

In the readjustment of the college and professional courses, this Association can take a most important part. It has already done this in other matters and can still further raise the requirements for admission to the law schools. The conferences described in the case of one university have been detailed as an illustration of the method to be pursued to secure the best adjustment of the interests affected. To secure uniformity of action, would it not be desirable to obtain the opinions of the members of college faculties who are engaged

in teaching law, as well as the opinions of the law school teachers?

The views of both of these classes of teachers as to textbooks, methods of teaching, subjects to be taught both for professional and non-professional uses, the time given and the capacity of college-trained students and those not trained, would be of service to colleges who contemplate introducing the study, and to those who already have done so and wish to confirm or alter their policy.

## SHALL LAW SCHOOLS GIVE CREDIT FOR OFFICE STUDY?

BY

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The eleven years that have elapsed since the Committee on Legal Education of this Association ceased its merely nominal existence and submitted its first exhaustive report, have been notable for the awakening of interest in legal education and the agitation for higher professional standards. When we remember that the first systematic and general effort towards reform was made within twenty years, and that the active coöperation of this Association and of the various state associations, has been had only since the beginning of the last decade, the showing is extremely gratifying.

The report submitted by the Committee in 1890 is worthy of careful attention. It is an exhaustive essay on legal education, and largely the work of the late Chancellor, William G. Hammond, a man of broad learning and a veteran law teacher. From its pages we may learn the history and tendencies of professional education. Its suggested reforms furnish a vantage point from which we can more clearly see the measure of advancement in the decade that has elapsed since it was penned. Many of the reforms proposed have been substantially realized and embodied in legislation, and many others are in process of realization through the growth of a sentiment for higher standards in the profession itself.

The great obstacle to reform has been the power of inferior courts to admit to practice. In thirty-five of the fifty-one political divisions (not counting the insular possessions), the authority to admit to practice is now vested in the highest appellate tribunal. This change has been deemed an absolute condition precedent to even a hope of reform.



In nineteen political divisions the minimum period of preliminary study is now three years, one year more than the maximum suggested in this report, while ten states require a minimum of two years. The remaining political divisions still fail to prescribe a definite period of study. A marked tendency to require some general education prior to professional study is shown, twelve states now requiring a preliminary education equivalent to that of a high school. The decade has witnessed the growing popularity of the law school as a medium of professional training. The schools have increased rapidly in number and in matriculants, and, what is more important, in facilities for thorough work. A study of the data of eighty-three law schools, comprising practically all of the schools in the United States, shows that in the matter of the time of study required, the school standard is in advance of the legislative standard. Forty-five schools now require three years preliminary study; thirty-four require two years, while only four require but one year.

There has been a notable advance in entrance requirements. The vague phrases—"a good general education," "a sufficient knowledge to understand the law"—so common in law-school announcements a few years ago, have disappeared, and in their place we find definite requirements. Thirty-one schools, comprising the schools most important in point of numbers and equipment, require a high-school education or its equivalent—evidenced by a diploma from accredited schools, or by an examination on the subjects usually embraced in a high-school course. Twenty-one schools require a preliminary education of candidates for a degree, but its scope is not clearly defined, leaving a wide field for interpretation. The remaining schools make no statements on the subject. Two schools are graduate in their requirements.

The importance of the study of the broader phases of the common law, its history, its philosophy, and particularly its relation to the other great systems of law, so strongly urged in that report, has been recognized, not by prescribing such

study as a part of the course leading to the LL. B. degree, but by providing facilities for such studies in the undergraduate or graduate departments of the universities and colleges with which seventy-one of the existing law-schools are connected. In many universities a so-called combined course is provided, enabling the undergraduate student to direct his studies along lines of non-technical study as a preparation for the professional study later on.

This summary will serve to show the general features of the advance in legal educational standards, and also to make clearer a discussion as to whether the advance has not, in some respects, been more apparent than real. The tendency to extend the period of study to a minimum of three years, so marked particularly in the law schools, has given rise to many problems, and administrative practices which are worthy of consideration at this time and place, particularly in view of the attitude of this association, and the Association of the American Law Schools, on the question of the minimum period of study for graduation or admission to the bar. All of these problems cannot be elaborated or even stated in a paper of this length; the discussion will therefore be confined to the one problem that is of the most immediate importance, and to which the others are in a sense related and subordinate.

The question is, briefly, this: Do the rules governing the admission of students to advanced standing, now in force in the schools that have a three years' course for the LL. B. degree, tend to nullify, or, at least, to neutralize the good results that should follow the extension of the period of study? And, further, if the answer be in the affirmative, what remedy is within the reach of the schools themselves, and to what extent is reform dependent on the attitude of the profession and on legislation?

Turning to the announcements of the various schools we find that of the eighty-three considered, nine schools require two years of resident study, while all the remainder require but one year of resident study, irrespective of the length of the course.

This last provision is the usual one and does not of itself imply low standards; the dangers or evils of the rule lie in the conditions imposed upon the student as to his prior study.

Twenty-four schools admit to advanced standing on examination alone. These schools are, for the most part, in jurisdictions where either no period of study is prescribed by law for admission to the bar or the diploma of the school admits to practice. Eighteen schools, located for the most part in the middle West, compel the applicant for advanced standing to pass examinations on the prior subjects of the course and to show such a prior study of all law as will make the total period of study equal to the time required for a degree. The evidence of this prior study is usually in the form of affidavit or certificate, signed by the preceptor in whose office the applicant has studied, or by the dean or secretary of the law school if the study has been pursued there.

Twelve schools, in addition to the usual examinations, require that the entire period of time for which credit is asked shall have been passed in a law school of reputable standing.

Probably no one will challenge the statement that the most important end in legal study is discipline—discipline in the sense of acquiring habits of methodical and exact thinking, the power to discriminate clearly—in short, the acquisition of that power which makes the true lawyer and scholar—the power of legal reasoning.

And very few will challenge the further statement, certainly none who are familiar with both methods, that the law school is preëminently the place to acquire and develop these powers and habits. The conception of the law as a science, that it lends itself to scientific investigation and exposition, is the keynote of all law-school instruction worthy of the name. The law school is the outgrowth of the conviction that the law is scientific in its basis.

To realize fully the benefits of methodical and systematic study, prolonged periods of application are essential. Every teacher appreciates the importance of long association with the

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terminology and principles of a subject, or group of subjects, as a means of developing the analytical power in the student. By this constant association he unconsciously falls into the attitude of mind and methods of the trained lawyer. It follows, then, that those schools which insist that the entire period of study be spent in a law school, where methodical study is required, are rendering the largest service to the student, and sustaining in the best manner higher standards of education.

It will be urged that the schools admitting to advanced standing on examination, or examination and certificate of prior study in an office or school, can exact as high a degree of discipline and knowledge as those schools which accept law-school study alone. To this it must be replied that, however possible such a plan is, it is not applied in actual practice. The candidate for advanced standing is not, as a rule, subjected to the same standards that govern the student who has pursued his study in course. The reasons for this are largely practical.

The terms of admission to the bar are not under the control of law-schools in any jurisdiction in this country. True, in a number of states (15), the diploma of a law school admits the holder to practice without the usual examination; but the law school is not the only medium of admission to the bar, and the schools in these jurisdictions, in framing their regulations for admission and graduation, must make them conform, approximately, to the regulations governing admissions to the bar in the particular jurisdiction. Otherwise, a class of men who particularly need systematic training will come to the bar without it. Few law-schools are endowed, and most of them must depend on the fees of the matriculants. This consideration applies also to schools connected with state universities, since the sentiment is strongly against maintaining professional schools at public expense, at least as regards current expenses; hence the temptation to keep the requirements at such a plane that students will be numerous.

Another factor that must of a necessity be reckoned with is the ambition of schools for immediate growth; a desire to be

able to announce large classes; the feeling that unless the classes are crowded the school is not fulfilling its mission, or comparing well with schools of larger resources and greater age.

These practical considerations must always be dealt with, and properly so. They are set out here simply to show the obstacles that lie in the way of advancement.

Schools maintained as a part of state universities owe a duty to the state, and cannot justify a standard of admission or advancement that very far surpasses the general educational standards of the particular state; nor can they exact conditions as to attendance and examination which are substantially greater than are recognized as proper by the statutes governing admissions to the bar. Very few schools, certainly no state schools, can justify at this time the imposition of conditions similar to those required by Harvard or Columbia. Progress must come through a general advance in educational standards and a sentiment in the profession itself in favor of higher requirements rigidly enforced. The exactions of modern business methods serve to foster the conviction that more thorough preparation is essential to a successful career at the bar. This feeling has filled to overflowing the schools with the highest standards.

But by far the greater number of the yearly recruits to the bar are not impressed by the importance of thoroughness. Their chief characteristics are a meager general education, and a consuming desire for a speedy admission to the bar. It is this class of applicants that constitute the obstacle to advancement; they are the constant source of embarrassment and temptation to the law schools, and a reproach to the profession. The whole problem of legal education is to reach this class who, under the still lax system of bar examinations, are enabled to gain admission to the bar.

In considering the two principal sources of recruits to the bar, it cannot be said in truth that those from the office are always poorly equipped and those from the law school properly prepared. A great many incompetents, as well as many

leaders, come to the bar through both doors. At best the novice, be he from the office or law school, fronts a vast wilderness of learning and a myriad of practical situations to which he must adjust himself. All that the preliminary training can hope to do, or purports to do, is to equip him with methods that will enable him to blaze a path for himself. That the modern law school comes nearer furnishing this method and training than does the modern office is no longer a debatable question.

The ideal office preceptor, one who exacted systematic sustained study from his pupil, explaining the relations of the principles of law to the practical routine of the office and court, was seldom realized in the more leisurely past, and practically not at all in the busy rushing methods of the successful lawyer of to-day. The instruction given is hardly worthy of the name, and usually does not extend beyond pointing out the books with which the student should become familiar. The reading done at intervals, amid frequent interruptions, breeds desultory and distracted habits of study. The practical knowledge gained in copying and serving papers and watching the proceedings of the courts is of little value at this preliminary stage of his education; it is out of the proper pedagogical order, and is quite as apt to confuse as to instruct, for, as has been observed by a distinguished law teacher, "there can be no intelligent practice of that which is not theoretically understood."

Again, the text-books found on the shelves of the practitioner are of little value to the uninstructed reader in ignorance of the fundamental principles of the law. They bristle with citations and quotations, but fail to point out the line of principle, and they assume a knowledge on the part of the reader that the student does not possess. His powers of discrimination undeveloped, he is confused by the mass of matter; he adopts the alternative of committing to memory what he reads, a practice destructive to the development of any power of thought. With this equipment he can usually pass the bar

examinations based as they are, for the most part, on definitions; a memory test with no occasion for the exercise of judgment. Thus prepared, he comes to the bar, but who can say he is fit to assume the duties of a lawyer under modern conditions of business. It is from this class of imperfectly and improperly trained men that the law schools of the West particularly draw the bulk of their applicants for advanced standing.

For the most part the applicant is compelled to pass examinations in the subjects of the first years as a condition of such standing. The examinations are nominally of the same character as required of those doing the work in course; yet the disposition is to mark with less rigor and to give the student a *chance*. As a result, only the hopelessly incompetent are rejected. The student admitted to advanced classes finds himself at once embarrassed by his lack of training and his ignorance of the earlier subjects of the course. Curriculums are so arranged that the fundamental subjects are taught the first year, the specialized subjects following in course. As a result, one who is imperfectly grounded in the fundamentals is handicapped in pursuing subjects, the literature and discussion of which constantly assume this primary knowledge. Such students are a constant worry to themselves and their instructor, and a drawback to the class as a whole. The period of apprenticeship, unsatisfactory at best, is rendered less valuable from the laxity, to use no harsher term, of the members of the bar, in giving certificates of study.

Where the law prescribes a fixed period of study, it unquestionably contemplates a continuous application to the study of law, undisturbed by any other vocation or pursuit. Yet this provision is persistently disregarded in spirit and frequently in letter by members of the bar having office students. Clerks in stores, teachers, and others readily obtain certificates of study, thus entitling them to take bar examinations, when, in fact, their law study has been incidental to other pursuits. And cases are frequent where the applicant has a certificate

when he has either not been in an office at all or for a mere fraction of the time for which the certificate gives him credit. The pressure is very great and the temptation strong to grant these certificates to those in haste to take advanced standing in the law school and to reach the bar. It costs nothing but a little sacrifice of truth and avoids a provision which the preceptor does not regard as important in any event.

This violation of the law is not due to deliberate purpose but is the result of carelessness or indifference, a disposition to give the student a chance to try his powers, or possibly a result of the conviction still held by a class, happily decreasing, that regulations as to preliminary study are nonsense; that every person ambitious to be a lawyer should be licensed, trusting the public to pick off the incompetents.

Whatever the reasons for these abuses, they are real ones and should be rooted out if we are to have any substantial advancement in professional standards. These abuses cannot be corrected to any extent by legislation, and the law schools, reflecting as they must the sentiment of the profession and the standards of the states where they are located, cannot debar students thus imperfectly trained. The schools and the profession are inseparably linked. The profession must be the source of the sentiment for higher standards and the schools cannot rise higher than this level without sacrificing numbers and revenues. A standard in advance of professional sentiment, is impracticable and defeats the very end sought.

Legislation is ample in a majority of the states. Legislation, similar to that of New York, requiring a preliminary education and the registration of law students, will aid in advancing the standards. Perhaps a greater responsibility would be imposed on the office preceptor by requiring him to make reports from time to time as to the progress of the student during the preliminary period of study.

After all, the most comprehensive laws cannot accomplish much if they are administered by the indifferent and careless, with no desire to make them effective. Much can be accom-



plished by examination in reducing the incompetents coming to the bar. That is the secret of the success of the law in New York—an administration in the spirit of higher standards. Office study must continue to be accepted in lieu of resident study by most schools, and particularly the state schools, as long as the office student can gain admission to the bar. Yet the evils of the practice can be minimized by rigidly fixing the subjects that must be passed after resident study. No credit should be given for the fundamental subjects pursued outside of a law school, and time credit should not be accepted for work done before the student has passed one year in a law school. After the first year the student is in a position to study independently to a better advantage. Through his year's work he has gained an insight into methods of work, a conception of the unity of law, and thus his school work aids him in his present reading.

In conclusion, then, although the tendency to increase the period of study is marked, the advance is more nominal than real, owing to the laxity of bar examinations and the carelessness and indifference of the members of the profession towards office students. The law schools, influenced by this attitude of the bar and by practical considerations, have neutralized the good results of an extension of the time of study by their administrative rules relative to advanced standing. No substantial reform can be expected from the schools in the face of the indifference and carelessness of the members of the bar. The abuses can, however, be minimized by regulations fixing the time for which office credit will be received and prescribing the subjects that must be pursued in course. No office credit should be given unless the student has pursued the first year course in a law school prior to such office study.

The attitude of the members of the bar toward office students must change, and a sentiment must be developed in favor of uniform standards rigidly enforced before the most comprehensive legislation will be of substantial value.

## LEGAL EDUCATION AND PREPARATION THEREFOR.

BY

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During the last thirty years it has grown evident that legal education must come from the law schools. The modern law office, with its trained force of stenographers and its rush of business, is not the place for study. The old gradually gives way to the new, and the modern needs for the training of a lawyer are met by the modern law school. Hence these schools must decide what that education shall be, and they only can properly determine what shall be the preliminary preparation. To work out this problem correctly we should first clearly understand what is the aim of the law school, and whether this aim is the proper one.

An examination of the annual circulars of many law schools taken from all parts of the Union, shows that the legal educators of this country believe that their work should be confined to training lawyers, training men for the practice of a technical calling. It is clearly the design of our law schools "to afford such a training in the fundamental principles of English and American law as will constitute the best preparation for the practice of the profession in any place where that system of law prevails"—thus speaks Harvard, and this seems to express the general view. This expressed aim is further demonstrated by an examination of the various courses required for graduation. Throughout we find them striving to train men for a practical profession. It is true that Columbia makes a somewhat more ambitious statement of its aims "to encourage scholarship and research" and "for the conduct of public affairs," but as her curriculum is drawn on the same lines as

other leading schools, we may fairly assume that her degree of LL. B. is intended to represent that the holder is well trained to practice his profession. In other words, no school in this country has dreamed of such a thing as becoming a merely academic institution for the purpose of training theoretical jurists as contradistinguished from jurists trained to handle our living, ever-developing system of law. One may surmise that President Patton may have had some such academic institution in his mind when he spoke at the Pennsylvania Law School celebration. The learned President lamented the want of true jurists, and hoped for the future appearance of philosophical legal writers as in the olden times. Probably the speaker was not aware that we have legal writers of deep philosophical thought and profound research, but at the same time these men are sound practical lawyers of the present age. All legal educators will recognize the fact that our profession must be taught as a living, practical thing, and no law school has failed to grasp this important truth. Let any university attempt to confine its efforts to imaginary philosophical legal theories to the exclusion of living law, and its efforts will surely fail.

Our law schools strike the true note when they announce that they design to train men for the practice of the profession.

Keeping this aim steadily in view, the question can fairly be considered as to what preparation should be required therefor. In the last five or six years the idea has been growing among legal educators that a college degree should be required, and although the fact is recognized that all schools are not able to reach this standard of entrance at present, yet it is deemed by many as the ideal to be attained if possible.

If it can be demonstrated that a college degree is an essential element in making a lawyer, using the term in its broadest and best sense, then no one can doubt that the law schools should strive for that goal and all should pull together for that end. But this has by no means been demonstrated, and many sincerely doubt whether it is a consummation to be desired. True, it is difficult to establish just what is requisite or most

available, and it is easy to fix upon a college degree as an iron-clad test without discrimination as to what any specific degree may signify, provided only it is conferred by an institution in good standing—Harvard, I believe, was the first law school to adopt the degree requirement for entrance, and it is significant that this exaction came at a time when that school was perplexed to know how to accommodate its inrush of new students. It may, perhaps, be questioned whether the gentlemen of that faculty would have adopted just this particular test if the necessity of the case had not suggested it as a convenient solution of their difficulty. There are other considerations which render this a tempting requirement to such schools as are in so fortunate a position as to enforce it. Thus it insures a pleasant class of students to teach because, as a broad general rule, the college graduates will be a more polished set. Again, such a requirement attracts college students because they prefer to associate with the college element. There is also glory to be gained for the school which announces itself as a purely graduate department. Some university trustees have recognized this as a good business move, and wholly on that account acquiesced in the request of their law faculty. But none of these very practical considerations have any real weight in the discussion.

In the very thoughtful paper read to you last year by Dr. Lewis this question is suggested, and it is worth while to recall here a few lines from that address. Dr. Lewis says: "I cannot help regarding it as fortunate that the present discussion regarding standards of admission among the better law schools seems to begin with and be confined to the question, 'Should we require a college diploma for admission?' Yet it would seem proper that before law schools require their students to attain a certain scholastic standard, especially when that standard involves as much time and labor as is represented by a college diploma, that the faculties should ask themselves whether the studies prescribed as necessary to obtain this degree are adapted to the work which is required of the law student. In other

words, the first duty is to inquire what information, what kind of mental training is necessary for one who would study law."

In pursuing the inquiry thus suggested it is well to consider here the many objects sought by a college education, and one is almost tempted to say that the curriculum neither is nor perhaps should be the most important part of college life. Our American colleges play a great role in developing character in all its phases, in educating its students through friction with each other, in teaching men to cultivate the arts of friendship and good fellowship. If any one doubts this let him read the many recent speeches of one of our great modern leaders in educational thought, President Hadley, of Yale, and see how unerringly he perceives the true duty of the college.

The University Club of New York City recognizes this when it refuses to consider professional degrees as qualifying men for membership upon the ground that the college degree signifies that life of good fellowship which the club seeks, while the other degrees do not. All honor to these colleges for training up true American manhood, but does this necessarily indicate that the college life better fits a man to study law, better trains him to practice law. The American college stands for social development in its best sense. This social training is a fine thing in itself, and it may well be granted that a great lawyer is very much stronger if he possesses all the qualities of broadly educated manhood, the physique of the athlete, deep knowledge of men, a wide comprehension of literature and the arts, in fact all possible attainments, but can we say that the legal educator should properly concern himself with these things? He may, as an individual, point out the great advantages of a liberal education, but it does not seem to be his duty or his province to enforce these views by making them an essential to the study of law.

It cannot be social development that the law school demands for its students, and must, therefore, be the mental training.

Given a mind well trained, thoroughly capable of deep legal study and of pursuing legal thought, what more should the

law school properly demand of an intending student? It is true that such a mind must have general education, but it does not seem necessarily to follow that a college education is the only means of obtaining this or in many cases even the best. Suppose a man trained by the best teachers here and in Europe, a man who has not found the subjects he sought in any one university but in many, while he has never taken a degree. Such a man applies at Harvard for admission to the law school, offering to take all the college examinations requisite for a degree from freshman matriculation to senior finals, should he be refused admission while the holder of a degree from some college exacting far less is received at once? This seems somewhat arbitrary. Are we legal educators sure that the best material for our future great lawyers is necessarily confined to the ranks of our college graduates, and are our best law schools doing their highest duty to our profession and our country when they take this stand? I have been at some pains during the last few years to ascertain what it is which induces college graduates to select one law school over another, and I have been much surprised to learn that in a large number of cases the selection is made because they believe they will find more pleasing associates there and not because they have made intelligent inquiry as to the merits of the school. In other words, in seeking the place where they are to be trained for their life work they look to the social side almost entirely. You will rarely find one of them who has the least appreciation of the advantages offered. On the other hand, among the brainy, ambitious men not holding college degrees one will find an intelligent interest in just such questions. They wish to know all about the faculty, what methods they pursue and what advantages are claimed. Other things being equal, is it not a mistake to shut out such men? It may be replied that they will not be shut out, that if they find they must have the college degree they will take the college course and be all the better for it. This may be true in a few cases, but I doubt very much whether it is in the majority of

instances; and, even supposing that a number of these men could and would allow themselves to be forced into the colleges, that does not necessarily show that the law schools are justified in thrusting upon them benefits which are not necessary for their legal career. It is very advantageous to walk with grace and ease; shall the law school therefore insist upon a preliminary course in dancing?

But if it is the mental training wholly, or perhaps the mental training combined with the acquisition of certain lines of information which is sought, what justification is there for demanding that this training and acquisition must be obtained in a certain way or that it must be evidenced in one way only? Why not make our entrance requirements sufficiently high and then offer examinations which shall properly test the applicant, accepting, perhaps, college degrees in some cases as equivalents. Just what those requirements should be is a question to be solved, and no more valuable work can be done than to discuss the question from all standpoints.

As far as mere mental training is concerned, power of thought, concentration and close analysis, with ability to take a strong mental grasp of legal questions, I am by no means satisfied that the best equipment is necessarily obtained at the college. After closely observing students of all kinds for many years the conclusion has been forced upon me that the sharp training of actual life, the mental friction of fighting with the world, if accompanied with a good education, such, for instance, as a New York High School will give, with, perhaps, a year or two in the city college, generally puts its possessor in a more advantageous position for his legal work, mental powers being equal, than is occupied by his competitor with a college degree. This does not mean that a college education is not an advantage to the man as such. No, the college man has gained much that the other has not, but in gaining this he has lost in concentration and pure mental power, or rather, he has not gained as rapidly in this direction because he has had other things to occupy his thoughts; his general social culture

has, to some extent, interfered with the special mental development which the law student requires. My contention is simply that the law school is going beyond its legitimate functions when it demands more for entrance than a suitable equipment for its course. Let it require such equipment, irrespective of how it may be obtained, and then make the requirements for its degree severe and searching. In my opinion the law degree should represent solely legal training of the highest character, and the general social and broadening influences should be left to the college and be represented by its degree.

This argument by no means opposes the rapid increase in the entrance requirements for law schools which has taken place all over the country during the last few years; on the contrary, I am heartily in sympathy with this advance and support it thoroughly. But just what should these requirements be? The very interesting address of Dr. Lewis, to which I have referred, is full of suggestion on this point and it will repay careful study. My own belief is that it would be wise for the would-be law student to take the general educational course of our best universities through sophomore year and from that time on to select his courses with reference to his professional work. If he has ample time and means, I should advise deferring his strictly technical study until he has completed his full college course, but during these last two years he can pursue subjects which will be valuable to him in his professional life and yet liberalizing at the same time. For instance, a broad two years' course in history would certainly be preferable to the higher mathematics. But if he has not time and means to spare, I would have him shorten his time in the college and not in his professional work. If during these last two years he combines the study I have suggested with some technical legal courses, he will not be narrowing himself too much, and at the same time the university which gives opportunity for some professional study, as undergraduate work, will not only help these men but do untold good to general students who take such courses as part of their liberal



study and for its mental discipline. I am sometimes asked why I should deliver a course on pure contract to the students at Bryn Mawr, the duplicate in method and subject matter of that given to my home law classes, and whether we expect these girls to become lawyers. Nothing is further from our thoughts, and these courses are given simply for the mental discipline which they involve. Our experience in this rather novel field has been most gratifying and has more than ever convinced me that no better means of pure mental training exists than the study of some legal topic—such as contract—where a special opportunity is offered for thought development. Our universities are waking to this idea, but in many cases the best results are not obtained, because the courses are more or less elementary or consist of so-called constitutional or international law. Once let our universities permit some undergraduate law courses, conducted in a manner which will allow the best law schools to accept them as equivalents, and much has been gained both for the college at large and our profession in particular.

While I am sure that the college work is inevitably growing into some such line as I have above suggested, I still feel that the law schools should not aim to make the mere holding of a college degree the *sine qua non* of entering their doors, but should offer examinations of the character they may ultimately determine for those who have obtained their education in some other way. If this idea should finally be adopted, then we could all study the question as to just what subjects should be demanded and what tests should be required. For instance, a New York college which has accepted the Regent's fifty- or sixty-point diploma, but now considers that insufficient, might add various other specified subjects and could accept Regent's examinations for them. My doubts arise as to the propriety of compelling a college degree simply because it represents certain social training. If this is not the element sought then why not offer examinations in lieu thereof.

Whatever views we may take as to preliminary requirements, I am satisfied that all preparatory work should be com-

pleted before the student is allowed to enter the law school. All his time in the school should be devoted to his law studies and not diverted by harassing attempts to work off conditions on preliminary subjects.

When the question of preliminary requirements is passed there is less difficulty in agreeing upon the general lines of work in the school itself. Nevertheless, there is still a difference of opinion upon some points even here.

The majority of legal educators will agree that three years, or at any rate an equivalent in time, should be demanded for the law school degree. A study of law school circulars seems to indicate that from thirty to forty-two hours lecture room work per week represents the required time for a degree, that is to say from ten to fourteen hours per week for three years of eight or nine months each, or a total of from 1200 to 1600 hours. This test is not always an accurate guide, because everything depends upon the severity of the required examinations, which each faculty must determine for itself.

It has been seriously questioned whether a recess of four or five months is requisite for a law student, and the summer courses already offered appear to indicate that many students are glad to avail themselves of a summer term. It would seem possible to divide a school course into periods of eight and four months. In this way any student, taking the two summer terms of four months each, could obtain his degree in two years and accomplish as much as can now be done in three. On the other hand, such students as desire the vacation could take the course as at present. Summer work is not easy to arrange, and many difficulties present themselves, but in view of the necessity for saving time it would seem as though some such step must ultimately be taken by the schools of the country.

It is quite noticeable that the tendency is constantly towards a more thorough treatment of the great underlying subjects, and this is especially noticeable in the case of Equity Jurisdiction. It may be hoped that the future years will show the

result of this work and that the bench and bar will have a more thorough knowledge of this subject. For some years past the lawyer or judge who has possessed anything more than an elementary grasp of this great branch of law has been an exception.

It is now generally recognized that the law schools should insist upon training in legal thought and that the mere acquisition of legal rules without this fundamental training is of comparatively little avail. The great value of the historical treatment of each subject is also fully recognized by the best legal instructors. As to methods of instruction and the best means for accomplishing the ends desired, there has been much divergence of views, and, at times, some heat engendered. This is unfortunate, because it is inconceivable that any general plan of instruction adopted by many experienced men throughout the nation should not have points of excellence. Every true teacher must be individual and teach in the way adapted to his temperament, and, even when teachers agree as to methods and have had the same training, they will differ radically in their classroom work. This is very marked in cases which have particularly come under my notice. For instance, Ames, Keener and Kenneson are three Harvard law school graduates, each believes thoroughly in the methods of instruction introduced by Langdell, each has gained a reputation for his course in equity jurisdiction, each uses the same collection of cases, and yet each course is fundamentally different from the other, as different as is each of these successful teachers from the other.

As the true teacher must be individual, and as the same instructor will modify his method in accordance with this subject matter, why is it not the part of wisdom to study the methods and ideas of each other with a view to fully comprehending them and thus ascertain what particular excellence we may discover and appropriate to our own advantage. This result will probably be brought about more and more by the annual meetings of the Law School Association, and, as we

become better acquainted personally, we shall understand each other's views more readily. Thus, some of us believe that for most subjects the study of a well-edited selection of cases, supplemented by the concurrent study of text-books and leading law articles, is the best plan, while others would invert the order, basing the course upon text-books and supplementing this with the study of cases. At any rate the great law teacher will in some way make use of both these aids, and, whatever may be his views, he will certainly make mental training of the first importance. I have never met any legal instructor who would dream of adopting "a scheme of legal education in which reported cases are the only sources of written information as to what the law is to which the attention of the student should be turned," and yet one able and experienced legal thinker and teacher believes that the followers of Professor Langdell's views pursue some such scheme. Can any one read the very suggestive notes interspersed through "Ames' Cases on Trusts" and suppose that "reported cases" are the only source of written information employed by those using the erroneously called "case system?" Instead of misunderstanding each other in this way, will not the profession profit more by a candid and fair examination of that which each school is accomplishing?

Legal educators are recognizing more clearly each day that the modern law office is no place for a law student. It is in most instances a sheer waste of time for a young man to attempt to do work in such an office while attending the law school. He gains next to nothing in the office itself, and puts a fatal drag on his law school work. When the school work is well finished, the student can take his plunge into the active life of the profession with some comprehension of what it all means, and the least service which he performs will serve to educate him, because he understands what it portends. It seems to me that the profession at large, and the law schools themselves, should discourage in every possible way office work in advance of or during the course of legal study.

In the same line I am satisfied that the law schools should clearly recognize just what their own limitations are and not weaken themselves by striving to accomplish that which does not properly lie in their province. It is a peculiarly fascinating idea that a law school should enter the field of the office and strive to teach the details of actual practice. To a very limited extent it may be wise to have the student practice the drafting of pleadings and papers of that character with perhaps some work in drafting incorporation papers, but to do too much of this defeats its own object and consumes valuable time.

Practice and experience in the world must come after the law school is finished. You can drill your student so that he can go to the heart of his clients' facts and advise correctly, but you cannot teach him the very difficult art of handling the client himself. Knowledge of men must come later.

Some of our faculty have found that for those who believe in the study of selected cases, very satisfactory results may be obtained by a careful and judicious condensation of the facts of some cases, thus saving time and unnecessary labor. We find that in this way a full class-room discussion can be obtained, and often this is facilitated by omitting the key which some opinions furnish. On the other hand it is at times advantageous to insert an opinion instead of the case at large. It is true that the student should be trained to find the vital facts from a mass of irrelevant matter, and also that there is valuable drill in discussing an erroneous opinion, and further that he must learn to analyze cases as he finds them. Of course these points must be borne in mind, and the condensed cases should form only a part of the collection, but there are very many advantages in the class-room use and study of such condensations. That these advantages have been recognized to some extent, even among those who probably would not agree with us as to the use of such condensed cases, is shown by the fact that to a limited extent this method has been adopted in the second edition of Thayer's Cases on Evidence.

I cannot believe that it is advantageous to make the collection of cases so large that the class cannot possibly discuss each one thoroughly, and can only cover all the cases by omitting a large number of them. Thus in the collections which I most admire, such as Keener's Contracts or Ames' Bills and Notes, is often found a number of cases illustrating the same point, perhaps from four or five different states. I understand the theory to be that the class shall read each case, but that the instructor is not supposed to discuss them all with the class, he is expected either pass them over with the remark that the following cases bring out the same point or to summarize them himself. The bulk and price of the collection is greatly increased, and it seems to me to be discouraging to the class to have so much matter that cannot properly be handled. Much as I admire these masterly collections, I am forced to the conclusion that many of the very best are unnecessarily voluminous.

Most of our best law schools require examinations from students coming from other schools and applying for advanced standing. This rule has seemed necessary for the maintenance of high standards, but it sometimes leads to results which are somewhat arbitrary. Thus the equity course in our own school is conducted on the same lines and with the same cases as that of Columbia. We admire greatly the Columbia instructor on this subject and know that his examinations exact a high standard. I believe the Columbia faculty would express the same sentiment in regard to our equity course, and yet each school will refuse to receive the certificate of the other, and each will also refuse the certificates of Harvard or Pennsylvania, and those schools will do the same. It may be said that it is no hardship to ask a man to undergo an examination if he knows his subject, but this is hardly so. It is an ordeal for any man to go to a strange place and pass the examination of a stranger whose ideas and peculiarities are unknown to him. Few students can do themselves justice under such circumstances as our experience has abundantly shown.

It probably could not be feasible to accept certificates for all subjects from any school because the best faculties have their weak points, and also the conduct of some courses may be such that they do not properly prepare for the continued course in the same subject in the school about to be entered. Nevertheless, I believe that all the best schools should accept certificates as to courses which they know are in all respects equal to their own. It is to be hoped that ultimately some steps may be taken in this direction.

It is a delicate matter to carry out any such change, and, doubtless, would cause ill feeling at times in case a certificate is refused, but, in spite of this, I think, with the advance in the standards all over the country, some modification of this ironclad rule should be adopted.

One word before closing upon the effect which all this effort in the lines of legal education must have upon the profession. It is admitted that legal education is more and more falling into the control of the law schools. Let any one, then, study carefully the intense, earnest and conscientious effort which is being made by the faculties of these schools all over the country, let him attend the meetings of their representatives and see what a fine type of men they are, and I defy him not to become convinced that the profession is being steadily raised and that it has a future worthy of any period of its past. Let our despondent California brother, who utters his wail in the "Yale Law Journal," look more below the surface and take heart, for as surely as our country is progressing towards its high destiny, just so surely will our profession be worthy of its best traditions and ideals.

## THE GRADUATING EXAMINATION IN THE LAW SCHOOL.

BY

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Let me express at the very outset my profound sense of the honor done me in inviting me to address this illustrious body of men, banded together, not for their own advantage, but for the cause of legal education and for the benefit of the youths of our land, who yearly congregate at our institutions of learning, to drink deeply there of that great well spring of justice and morals—the Common Law.

In the expansion of that great system of jurisprudence to meet the needs of every business, every country and every clime, the judge, the practitioner and the teacher of the law each takes a part, and neither plays an inferior rôle. It were an invidious task to institute a comparison between the service rendered by each of these in perfecting that system which now commands the enlightened admiration of the world. Rather let us turn our thoughts to a consideration of the ways and means whereby the teacher may increase his usefulness to his profession and to his country.

This honorable body has already in many directions rendered incalculable aid to the cause of legal education. In every law school the effect of your efforts is seen in the lengthening and expansion of courses, in higher standards of attainment, and in all the various ways suggested by an intelligent comparison of methods and results.

Everywhere the law school is now alive to the dignity and importance of its functions. It is exacting of the student good, honest work in the classroom. It is requiring him in his preparation for the bar to take the time to ponder, reflect and digest, as well as to acquire. In some instances it is requiring,



as a preliminary to legal study, a thorough academic training. It is demanding of the student more original legal investigation, the better to prepare him for the professional duties that lie before him. The value of these things is now too well appreciated to need further discussion.

But there is one matter connected with legal education, the value of which as an educational force, it has seemed to me, we have not appreciated perhaps as we should. I refer to the graduating examination.

I have concluded, therefore, to consider briefly the nature, character and purposes of the examination, not with the expectation of advancing new ideas, but simply with the hope that it may provoke a helpful discussion.

The examination, I apprehend, should fulfill a two-fold function. In the first place it operates as a test of the student's knowledge of principles, his ability to apply them, and his fitness to enter upon the practice of his profession. In this aspect it is not to be regarded as a teaching force, but merely as a means of ascertaining how successful has been the teaching. It is simply a measure, a standard by which the student's acquirements are to be weighed.

But in its second aspect the examination is much more than a mere test of knowledge. It is susceptible of use as a great educational factor in itself, because the student is thereby compelled to review the work he has done for the classroom with a thoroughness not otherwise attainable.

To obtain a proper acquaintance with any branch of learning, it is essential that it should be studied not only in detail, but as a whole. The student must familiarize himself with the relations of the parts to the whole and to each other, as well as with the *minutiae* of each part. The classroom work furnishes the minute knowledge of detail, but permits only imperfect glimpses of the whole and of the correlated parts. The latter can only be attained by a systematic and rapid review.

Should one of us desire in a limited time to obtain a thorough familiarity with this beautiful city, he could select no way of

achieving this result so quickly and thoroughly as by examining first the details of every street and park, and then, mounting to some glittering tower, obtain a view of the whole city, thus fixing permanently in his mind the relations and directions of all the various parts, which before he had studied in sections. So, one who desires an accurate and philosophical knowledge of any subject may best acquire it by the careful study of detail under competent teachers, supplemented by his own thorough review of the whole.

In the study of the law, perhaps more than in that of any other science, "damnable iteration"—the most thorough and constant review of past work—is essential to the student's successful mastery of the subject. Review! Review! Review! Too much emphasis cannot be laid upon this advice to the student of law, nor can it be repeated too often, nor enforced too stringently. For, alas! human beings are so constituted as always to be anxious to attain a desired goal with the least possible effort, and ever to be allured by names rather than things, by shadows rather than substance. When applied to a candidate for a law degree in one of our schools, these characteristics of human nature work out in many cases the peculiar result that the student worships and labors for the degree rather than for the knowledge which the degree represents, and will attain the coveted diploma with the least possible effort consistent with certainty of success.

In such cases—and they constitute the rule rather than the exception—it is bootless to explain the advantage and necessity of review in order to the acquisition of a thorough knowledge of the subject. In the abstract, the student recognizes that he is seeking knowledge, but in the concrete he is seeking the degree—pursuing the shadow, not the substance. Unless, therefore, by means of searching examinations, a review is made essential to the degree, the student will rarely commit the (to him) unpardonable folly of doing more work than is called for.

It is for the most part practically impossible, nor indeed is it desirable, that the review should be personally conducted by the teacher or his assistants. In this matter, the student must usually work out his own salvation. Nothing short of the requirement that he must pass searching examinations for his degree will induce him to enter voluntarily upon this arduous task.

It is this office of the graduating examination that differentiates it from the examination for admission to the bar. The latter has no other purpose than to test the candidate's knowledge and his fitness to practice his profession, while the graduating examination as a review-compelling medium, fills an important place in the teaching of the law, in addition to its function as a mere measure of attainment. It may, therefore, well bear a closer scrutiny of the principles which should regulate it in order to its most successful application in both its aspects.

### I. WRITTEN OR ORAL?

The first practical question that arises is: Should the examination be written or oral? In the absence of some insurmountable practical obstacle, there can be little doubt in the mind of one who has used both forms that the written examination is greatly preferable, not only because it avoids the danger of personal embarrassment on the part of the student (sometimes a very potent source of failure), but also and chiefly because it is much more fair and just both to the student and to the school.

### II. LONG OR SHORT?

In the next place, should the examination be long or short? As a test of the student's knowledge, the ideal examination would be that which would require for the attainment of the perfect mark the correct and accurate rendition by the student of every principle comprised in the particular course upon which the examination is being held. The accurate grading

of such a paper would show with precision the exact percentage of knowledge possessed by the student. In other words, the ideal examination is that which asks an indefinite or an infinite number of questions upon the subject.

But to give such an examination is, of course, as utterly impracticable as it is impossible that two parallel lines should meet. All we can hope for is a remote approximation to this ideal. That the approximation should be other than very remote is rendered impossible by many practical considerations, the chief of which are the impracticability in general of devoting more than one day to a single examination and the physical limitations of the student.

Practically, therefore, the extreme limit of time to be allotted to an examination should not exceed eight hours, that is, it should be arranged to occupy the average student for no longer period. Perhaps six hours would be a more reasonable limit.

Subject to these practical limitations, and others dictated by convenience in particular cases, the principle seems plain: The more the student is required to tell, the fairer is the test of his knowledge.

### III. THEORETICAL OR PRACTICAL?

Another point arises with respect to the character of the questions to be asked. These may be either theoretical or practical.

The *theoretical* question is one which may be answered in the very words of the text-book or teacher. The student is called upon to *remember* the statements of definitions and principles, but not to *apply* them.

Upon the *practical* examination, on the other hand, the questions are stated more or less in the form in which they would be apt to arise in practice, and the student is forced to rely for his answers, not only upon his knowledge and memory of principles stated, but also upon his ability to apply the principles he has learned.

In another form of the practical examination, which for want of a better term we may call the *ultra-practical* examination, the student is compelled not only to apply to a concrete case the principles he has learned, but to reason in a legal way from those principles to new and more advanced conceptions which he has never seen formulated.

Each of these forms of question has its peculiar advantages. Probably the least valuable is the theoretical, for it in the main tests the memory rather than the understanding. The sort of examination that constitutes the fairest test for one type of mind may not be as fair in the case of a different type. It is to be noted also that each of these forms of examination represents a different sort of knowledge, each sort being occasionally needed by the practitioner. It would seem reasonably to follow that the fairest general test would be an examination wherein all these varieties of question are judiciously mingled.

#### IV. THE HONOR SYSTEM.

I would be recreant to my duty, should I fail, in this noble presence, to lift up my voice in favor of one feature of the examination which — unfortunately, I cannot but believe — does not prevail in all our institutions. I refer to the examination conducted upon the honor system.

Originated in 1842 at Jefferson's noble creation, the University of Virginia which I am proud to serve, its intrinsic merit has led to its adoption in many of the schools and colleges of the country.

It will doubtless interest you to learn that the author of the resolution in the Faculty of the University of Virginia, which originated this system, was Hon. St. George Tucker, afterwards President of the Virginia Court of Appeals, and the father of John Randolph Tucker, one of the distinguished Presidents of the American Bar Association.

With the theory of the honor system you are doubtless all more or less familiar. It relies upon the principle of student self-government, and can only be successfully supported by the

favorable sentiment of the student-body. It may be extended to other matters besides examinations, but in its application to the latter, the student makes it a point of honor to give and receive no assistance upon any examination, and at the University of Virginia the student-body itself punishes any offender against its code of honor by summary expulsion, the faculty's kind offices towards that end being unnecessary. Such a punishment is terrible in its consequences to the individual, for it marks him for life with the brand of dishonor, and is rarely called for.

I hope I shall live to see the honor system adopted by the free voice of the students themselves in every great institution of our country.

#### V. THE GRADING OF EXAMINATION PAPERS.

Objection is frequently raised to a high and fixed examination standard that it is unfair and unjust, since the student's percentage will depend in large measure upon the whim or caprice of the person grading his paper; or at least that it is fluctuating and uncertain, since a certain grade with one teacher or at one institution may mean a very different thing from the same grade as used by another teacher or at another institution.

And it must be admitted that the grading of papers cannot in the nature of things be quite mathematically exact. Neither for that matter can the grading of a student's answers in the classroom. But I contend earnestly that, given a conscientious examiner disposed to do full justice both to his school and to his student, there can be made a very near approach to mathematical certainty.

My own personal observation and experience, if you will pardon a reference to it, has clearly demonstrated to my mind that a student's percentage in an examination under one professor will furnish a very close index to his percentage upon an examination held under a different professor about the same time. There may be a variation of two or three points in the

hundred, but rarely more. Numerous instances of this fact each year in my own experience surprise me by their strong testimony to the accuracy with which papers may be graded.

I assert, therefore, with the profoundest conviction of the truth of the statement, that, given examiners who desire to administer exact justice between the student and the institution they serve, there is no danger that an examination standard fixed at a certain point will be materially varied from. The important condition is that the examiner should be imbued with the desire to administer *exact justice*.

Indeed, a sufficiently numerical value being attached to each question, the grading can be made very accurate. Something, of course, must be left to the examiner's judgment in ascertaining the value of an answer—more and more as the examination becomes more practical in its character. But in any event the examiner's discretion can properly be invoked only within very small limits. There is room only for small errors of judgment, and these are apt to cancel one another.

## VI. THE EXAMINATION STANDARD.

Thus far, in discussing the various attributes of the examination, we have regarded it merely in its aspect as a measure or test of the student's knowledge. The next and last point upon which I wish to touch—the examination standard—introduces also into the discussion that other most important view-point of the examination—its aspect as a review-compelling medium.

While the percentage required for graduation must depend in a measure upon the form of examination, the modes of instruction and the customs and traditions of each school, there are some general principles which we may look to as proper to regulate this very important matter.

One thing is certain—the higher the examination standard, the more thoroughly will the student be compelled to do his work both for the classroom and by way of review, and the

more law must he know when he comes into the examination-room.

It has been objected that a high examination standard leads the student to cram his head full of propositions for examination purposes, which he will forget immediately afterwards. There are some great law schools in this country which require of the applicant for *honors* a much higher percentage upon examination than is demanded of the ordinary candidate for the degree. Ask these institutions whether their honor men are regarded as below par—ranking below the average candidate for the degree because of the increased standard?

But the objection scarcely needs this refutation. One who has once learned principles so thoroughly that he can turn and twist and apply them to any concrete case likely to arise, is not liable to forget them afterwards, even though the primary purpose in learning them is to pass a searching examination. Exactly the same objection may be applied to a high standard in the classroom work.

The truth is that the student does forget a good deal of what he learns either for recitation or for examination, but he also remembers a great deal. He finds little difficulty in recalling what he has once learned, and he has had the benefit of the mental discipline and training undergone in once learning it. A higher examination standard merely compels him to review and grasp more firmly the principles learned in the classroom.

In the preparation of this paper I have written to nineteen of the most prominent law schools in this country, with the intention of ascertaining their examination standards. They very courteously replied, giving me the information desired, which may be summarized as follows: Two schools had no fixed standard, requiring only that each professor be satisfied with his students' attainments; one required *fifty-five* per cent. as the standard for general graduation; three required a standard of *sixty* per cent.; one required *sixty-five* per cent.; five required *seventy* per cent.; three, *seventy-five* per cent.; three, *eighty* per cent.; and one, *eighty-three* per cent.



As a practical illustration of the advantages of a high examination standard, let us suppose a standard of eighty per cent. as opposed to sixty-five per cent. Is it not apparent that the higher standard would compel the average student to do much more thorough work in class and by way of review? And would it not follow that the degree would stand for much higher attainments on the part of the average graduate?

Let me not be misunderstood. I do not mean to imply that the student would thus be given greater opportunities to learn. Indeed, at some of our law schools those opportunities could hardly be improved. Along those lines our standards have been greatly elevated during the last few years, largely through your efforts.

Nor would it imply any particular advance on the part of the best students, who would probably reach the higher mark in any event.

It would simply mean that the *average* student would be forced to take more advantage of the opportunities afforded, do more thorough work, and prepare himself better for graduation and finally for his profession.

Would not this body do well to look into this matter, and inquire whether advantage would not result to the cause of legal education by a hearty effort to bring about a greater uniformity and an elevation of the examination standards in our law schools? The reforms you have already advocated have done much to raise the standard of attainment of our *best* graduates. The adoption of higher examination standards would go far towards elevating the rank and file.

## IS LAW A FIELD FOR WOMAN'S WORK?

BY

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OF INDIANA UNIVERSITY.

I make no apology for bringing before the Section of Legal Education the question embraced in the subject of this paper. While it has never before been presented to us collectively for discussion or otherwise, each of us, doubtless, has been called upon to answer it for some one whose chosen life-work depended largely upon the answer given. It is of increasing importance and will arise more frequently within the next few years than ever before. It is of interest to the bench and bar, because women are not only asking admission to practice, but are rapidly entering our ranks and practicing at our bars.

It is of interest to our law schools because in at least sixty-four of our one hundred and two schools have women been admitted to the study of law. They have entered, studied and carried away honors and degrees. There are many instances where prizes offered for the best work in law have been won by young women over a large class of young men competing for the prizes.

More than three hundred women have been admitted to practice law in the United States within the last twenty-five years. Not all these, perhaps, are practicing in our courts, but very many of them are, and the others, like many of the men who have been admitted to the bar, find it more congenial and, perhaps, more profitable to confine themselves to the work of the office. But they are none the less lawyers, doing the work of the legal profession. This does not include a large number of female clerks doing legal work in lawyers' offices all over the country. There were during the past year in our law schools more than two hundred women studying law. And while the increase of law students has within the past five

years been much larger than in that of most other professions, the percentage of increase during the same time of female law students has been double the percentage of the increase of male law students. This may be accounted for largely by the fact that our schools have been open for women for a much shorter time than to men, yet it remains an interesting phase of our question. Besides the large number of law schools where men and women study together in the same classes, there are two schools, one in Washington, the other in New York, where special work is laid out for women who compose the entire membership of such classes. There are several organizations, prominent among which is the Woman's Legal Educational Society of New York City, formed and conducted for the purpose of advancing the legal education of women. So the question of women in the law is neither forced nor theoretical. It is both real and practical, touching the lives and life-work of some of our most noble and most intellectual women.

In our schools and colleges they have long been discriminated against. Only within the last half century have they been admitted to those sacred precincts of higher learning whose teachings, it was believed, only men could grasp. But here they have shown a mental power and alertness unsurpassed by the young men of their college classes, and it is now conceded on all hands that higher education is adapted alike to the sexes. It is only a few years since all the professions were closed to women. They could consistently do general housework, cooking and sewing, but beyond such as this they ventured at their peril. But when it was discovered that they were capable of learning all the higher branches, it was also learned that they could teach, and, to their credit and to the advantage of the children, they have for years been in control of the common schools all over the country.

The schoolmaster with his birchrod government has given place to an army of more than 284,000 splendid women, whose examples and teachings in the schoolrooms of our land have saved us the necessity of larger armies of a more belligerent

character in other fields of our government. Step by step they have taken higher positions in the educational world till to-day there is no course in the college curriculum which they have not mastered and do not teach. In our high schools, public and private, there are 14,950 female teachers. In our institutions of higher education there are 1738 female professors and instructors, besides 1456 female professors in colleges for women. There are 37,505 female students pursuing work in our colleges and universities. There are 132 colleges for women alone, with an attendance of 18,415 students. Having mastered the field of general and higher education, our women have entered the domain of technical and professional work. As pulpit orators they have for many years proved themselves capable. In 1889 there were 156 women enrolled in the theological schools of our country. In this field there is an opportunity for work which bids fair to attract many of our best educated women. But the medical profession has been most attractive to the women. In it they have won fame and more of fortune than in any other work. There were 1436 female students enrolled in the medical schools of the United States in 1899, besides 8907 studying to become professional nurses.

But when the women have entered all these fields of work which so recently were held sacred to men, and when they find that in such work they can successfully compete with men and make for themselves an independent support and, perchance, a fortune, why shall they not enter the law? Enter it they will—in fact, they have already done so, with, perhaps, indifferent success, but with determination to bring out of it complete success.

An English legal journal recently said: "The fact that women are admitted to practice in the United States is sufficient to prevent the matter being passed off as a joke. . . . There are many things which women can do and can do well,—some things they can do better than men,—but is practice as a solicitor within their powers? That is the question involved. The practice of the law differs from most other walks in life in

the fact that it embraces the whole business of the world. Women may be competent to be artists, writers, preachers and doctors, and yet incompetent to be practicing lawyers. So soon as they have carried the other professions they may venture on law and not before."

This last assertion sounds somewhat authoritative and yet it is exactly what the women have done. Having succeeded in all the other professions they now seek admission to the bar. While there may be plausible reasons why women should not enter into active practice in our courts, surely one cannot, at this late day, insist that they shall not be educated in the law if their ambitions and inclinations lead them in this direction.

Our much-vaunted assertion that a knowledge of the law makes one a better citizen certainly applies to men and women alike. Whether or not we believe in women practicing at the bar, we should, at least, encourage their attendance in our law schools, that they may, by learning law, thereby acquire an important part of a liberal education. It would seem, indeed, that one's education, in these days of numerous law schools, is incomplete until such a course in law has been taken as will give one a general view of our legal system. For there is no condition in life where the law does not enter with its commands and restraints. It prescribes our rights as infants, never loses sight of us from the cradle to the grave, and distributes our estate when we are dead. The law seeks to control all those of different race, color, condition and sex who come within its domain. Surely it is important that all should know, at least in a general way, what this law is and what is their relation to it. If so, the doors of our law schools should not be closed to a class composing in numbers more than half our population, but should stand open for all who show themselves, by preliminary training, competent to enter. And if law is to be a part of a liberal culture, then, on the other hand, the most liberal culture possible should be attained by those who seek to enter the practice. The growing sentiment in favor of the study of law among both men and women

will doubtless, within the next five years, open the doors of all our law schools to women. As there is no sex limit to justice and equity, there should be none to the knowledge of their rules and to the privileges of the schools where these rules may be learned.

If it be claimed that women cannot succeed as practitioners in court because they have not the powers of advocacy, is it not also true that few men are successful advocates? An investigation would probably prove that the proportion of successful advocates among women practitioners is as large as among the men who practice. But eloquence, the power to move and convince great audiences by magnetic speech, plays a much smaller part in law practice than formerly. Many of our best lawyers seldom enter the courtroom. Much of their most important and most profitable business is done in the office. The competent office lawyer is rapidly becoming the firm's most important factor. Every successful law firm to-day does more business in the office than in court. Besides, a large part of the business done in court is before the judge, where a sound discretion and a thorough knowledge of the law count for much more than ability to speak glibly. An item containing this statement recently appeared in an eastern periodical: "Forensic eloquence is now of but inconsiderable moment to the average lawyer. The profession cannot live on the profits of litigation. Out of 11,000 lawyers in New York City not ten per cent. appear regularly in the courts. There will always be work for the jury lawyer; the great advocate will continue to be in demand and to win admiration for his skill and prowess in legal battles; but the business world is seeking more and more to steer clear of his domain by consulting in advance his less pretentious but more valuable associate. The shrewd business man knows of how much more worth it is to be kept out of a law suit than to win one. The aim of the true lawyer is not and should not be to promote litigation. On the contrary, it should be to avoid it. The physician who wins and keeps our confidence strives to prevent

sickness, and, if he cannot, then to cure it as rapidly as possible. If he does his highest duty as a citizen he will seek to promote and maintain such a state of sanitation that sickness will not occur. It is for this we pay him; and if he wilfully does otherwise, he betrays his profession. So with the genuine lawyer. His energies should be expended, not simply to bring his client successfully through litigation, but to aid him to avoid and escape litigation. There are few men who do not want to keep their business out of court. To do this successfully they consult the lawyer at his office, have the business attended to there and pay liberally for it. Such business, as a rule, can be done just as well by women as by men if they know how to do it; and it has long been conceded that they learn the law just as readily and thoroughly as do men."

The tendency is to make law practice more of a business practice. This is the age of corporations, trusts and combines in business. Whether fortunately or not, the law practice has not escaped the inclination to combine. In the large cities this tendency is especially marked. A firm of prominent lawyers will employ on salary specialists whose labor is all done in the name and under the direction of the firm. There are those employed whose whole time is given to briefing cases in the firm's name. Others do office work of a different character and still others appear in court trials. While it is highly improbable that such combinations will become general, the work thus done under the direction of the firm could, ordinarily, be done by women lawyers. Making wills, settling estates, probate work generally, abstracting titles, administering trusts, all afford legal work peculiarly adapted to women. Indeed, the woman lawyer, like her brother in the law, will find that the terror of legal battles is largely imaginary and that such contests are by no means a necessity to a lawyer's livelihood. Professor Issac F. Russell, of the New York University, has said: "The highest prizes should be open to women as to their brothers in the profession. The supreme honors are never for the many. Woman has now perfect control of her estate—

real and personal—and is admitted by the law to the responsibilities of executor, trustee and guardian. She is thus in need of instruction in the law to qualify her to appreciate and act on legal counsel understandingly. If she is to continue to figure as a capitalist, a taxpayer, a litigant, and, perhaps, a voter, she certainly ought to make herself master of the rudiments of legal science."

The story of woman's admission to the bar is one of contest and struggle. We, their brethren, being already within the gates, with legal power to keep out those who are of opposite sex, have not extended a very hearty welcome to our sisters in the law. If the way has been opened for them to enter, it is only because with their own hands they have torn down the obstacles and cleared away the rubbish. The courts, in discussing the question of their admission, have divided on two main points:

First, whether, in the absence of an enabling statute, it is proper or legal to permit women to practice law? Second, whether, from an ethical standpoint, she should be allowed the privilege or should accept it if granted? The courts which hold that women have this right, in the absence of legislation on the subject, stand upon the theory that such right exists unless restricted by the constitution or laws of the state; that it is not a privilege granted but a right held. The constitution of Indiana provides that "every person of good moral character, being a voter, shall be entitled to practice law in all courts of justice." The Supreme Court of that state, in *ex parte* Leach, held that, notwithstanding women are not voters, they are not, by this clause of the constitution, excluded from practicing law. They say that while voters of good moral character are granted admission upon application and proper evidence, there is no denial of such right to women. The laws of England and the rules and usages of Westminster Hall are said to have been based on mere fiction which should be so far forgotten as not now to bar the door of the legal profession to women when other learned professions are open alike to the



sexes. That clause of the Federal Constitution which provides that "no state shall make or enforce any law which shall abridge the privileges or immunities of a citizen," is quoted as sustaining the theory that no abridgement of rights was intended by the state constitution. And the court holds that "the theory upon which our political institutions rest is that all men have certain inalienable rights; that among these are life, liberty and the pursuit of happiness; and that, in the pursuit of happiness, all avocations, all honors, all positions, are alike open to everyone, and that, in the protection of these rights, all are equal before the law."

Women are citizens and these rules of law are meant to be applied to citizens regardless of sex. Besides, the constitution of the state provides that "the General Assembly shall not grant to any citizen, or class of citizens, privileges or immunities which, upon the same terms, shall not equally belong to all citizens." In this way many of the state courts in which the question has been tested have decided. But, on the other hand, the courts of many states have held to the contrary, sometimes contending that the privilege of practicing law is in itself an office, the attorney being an officer of the court; or insisting that, as women were not admitted to practice under the common law in England, such disability continues here unless removed by statute. These decisions, made in Pennsylvania, Massachusetts, Maryland, Oregon, Wisconsin and in many other states, and sustained by the United States Supreme Court, are in square conflict with those first mentioned and have for their support the precedents found in the common law. But in nearly every instance, if not in every case, where the Supreme Court of a state has decided against admitting women to practice, the state legislature has promptly passed a statute authorizing their admission. The persistence with which women have pressed their applications for admission through all the courts of the state, appealed to the Supreme Court of the United States, and, again meeting defeat there, have then successfully applied to the legislature for an enabling

statute, is an indication of their earnestness and zeal in this matter. Their desire to enter the profession is neither a fad nor a whim. It is an effort to gain recognition by merit in the noblest of professions.

Brief quotations from the opinions of Judge Ryan, of the Supreme Court of Wisconsin, in the application of Lavina Goodell for admission to the bar of that state, and of Judge Arnold, of the Court of Common Pleas of Philadelphia, in Mrs. Kilgore's application for admission, will indicate the reasoning from the ethical standpoint for and against women entering the law.

Judge Ryan said: "So we find no statutory authority for the admission of females to the bar of any court in this state. And, with all the respect and sympathy for this lady which all men owe to all good women, we cannot regret that we do not. We cannot but think the common law wise in excluding women from the profession of the law. The profession enters largely into the well-being of society, and, to be honorably filled, exacts the devotion of a life. The law of nature destines and qualifies the female sex for the bearing and nurture of the children of our race and for the custody of the homes of the world and their maintenance in love and honor. And all life-long callings of women inconsistent with these racial and social duties of their sex, as in the profession of the law, are departures from the order of nature; and, when voluntary, treason against it.

"The cruel chances of life sometimes baffle both sexes, and may leave women free from the peculiar duties of their sex. These may need employment, and should be welcomed to any not derogatory to their sex and its proprieties, as inconsistent with the good order of society. But it is public policy to provide for the sex, not for its superfluous members and not to tempt women from their proper duties by opening to them duties peculiar to men. There are many employments in life not unfit for the female character. The profession of the law is surely not one of these. The peculiar qualities of woman-

hood, its gentle graces, its quick sensibility, its tender susceptibility, its purity, its delicacy, its emotional impulses, its subordination of hard reasoning to sympathetic feeling, are surely not qualifications for strife. Nature has tempered women as little for the judicial conflicts of the courtroom as for the physical conflicts of the battlefield. Womanhood is modeled for gentler and better things."

On the other hand, Judge Arnold, in Mrs. Kilgore's case, above referred to, says: "There is scarcely any subject upon which the opinions and practices of society have undergone greater changes during the present century than that which relates to the social and legal status of woman. Positive legislation has everywhere broken down the barriers within which she was formerly confined. Public sentiment has at the same time emancipated her from the restraints which formerly encumbered her life and fettered the freedom of her action. If there is any longer any such thing as what old-fashioned philosophers and essayists used to call the sphere of woman, it is, it must be admitted, a sphere with an infinite and indeterminable radius. She is no longer relegated to the position of plaything or drudge or compelled to bound her aspirations by the parlor or the nursery. Everywhere now she is permitted, by the common consent of mankind, to select and pursue her own vocation without criticism and without any sacrifice of social standing. She holds responsible public offices both under national and state governments. She is found in all the pursuits and professions of life, not only working out her own independence, but entering into competition with men for the highest rewards of ambition. It is to me surprising that anyone should speak with apprehension of an impending social change by which women are to seek fortune and fame in fields which were formerly denied to them. Such persons should awake from their slumbers. The revolution is over. It was so gradual that you, perhaps, did not observe it or note the several steps of its progress. But it is over. It is an accomplished fact. Its results exist to-day everywhere, and all

around us, and have existed long enough for a moral philosopher to write its history. Now, I will ask, are we to take notice of these changes and recognize the weighty facts which they have brought with them and the rights which have grown out of them, or are we to set ourselves to the vain task of attempting to turn back the wheel of time, to convince history that it is all wrong and to say, at this time of day, that a woman shall not be permitted to pursue the vocation to which her tastes lead her and for which her studies have qualified her; to earn her bread in any respectable calling she may elect to pursue, or that the profession of the law is, of all the professions and vocations in the world, the only one from which she shall be excluded—the only tree of knowledge from which she shall not eat? When we reflect upon what woman has accomplished for herself and are witnesses of the struggle which she everywhere bravely maintains, amid many trials and prejudices, to provide for her support and to improve her condition, we are unwilling, by any unnecessary exercise of power, to place an obstacle in her path in the pursuit of an honorable occupation which she is qualified to undertake."

There is no dissent from the opinion that women are excellent law students. They are much above the average in their classes, often standing first. But while law teachers generally admit their ability to learn law, there is here, as among the courts, a great difference of opinion as to the propriety of their undertaking court practice. The dean of a large school writes: "My judgment is against the advisability of women entering upon the practice of law. As office lawyers they may do well, but, upon the whole, I am of opinion that women as a class will not make any considerable success in the profession of the law. I would not discourage the study of the law by women, as I think that it tends to broaden and enlighten them in a way that no other course of study that they could pursue would do."

Another eminent teacher says: "I believe that there is much of office work that women lawyers might do well. I

believe that they should have the opportunity to prove their capacity for law work, whether in an office or in the courtroom. I do not think it probable that women will hereafter constitute a large proportion of our lawyers."

Again, the dean of still another law school writes: "I think that for business reasons and for reasons of culture it would be highly advisable for women to study law, but do not believe they will ever be successful in actual practice."

From another well-known teacher the following was received: "All those graduating from this school were exceedingly able women, and one of them was, I think, the ablest student in the class in which she was graduated. She was selected in competition as one of the inter-collegiate prize debaters and held her own without difficulty in the debate."

The dean of a law school on the Pacific slope writes as follows: "I do not believe women will be court lawyers to any extent. The labor is too severe. They have the mental ability perhaps, but I do not believe they can long endure the physical strain of trying cases. As office lawyers, it seems to me, they may become a factor in the profession. The care and faithfulness they show in general induces me to think they would do excellent briefing and clerical work."

Women who have undertaken the practice and have continued in it for a few years are usually quite enthusiastic on the subject, even insisting that active court practice is as fitting for women as men. The determination to succeed, the fascination that legal work, new to women, brings, the belief that legal disabilities of women have been largely removed by the influence of women lawyers, and that, by their influence, complete legal and political equality of the sexes is to be obtained, stimulate the young women to enter the profession and give to them an enthusiasm which even a dearth of clients cannot suppress. But many of the women who have independently entered the active practice, including office and court work, find clients as willing to trust their business to them as to men of equal experience. They have not yet been long

enough in the profession to develop women lawyers equal to Marshall, Webster or Choate, but those in the practice probably average well when compared with the men, both in ability and income.

Mrs. Catherine Waugh McCulloch, who practices law with her husband in Chicago, writing concerning the income of women lawyers, says: "That is difficult to discover, but I believe but few of them have received as much as \$5000 a year. One told me of a \$10,000 fee, and I know of some who have earned and collected as much as \$2000 or \$3000 per year, but this was only after five or ten years' experience. When there are women lawyers of twenty to thirty years' practice there will be larger fees. But, even in the early years of practice, the fees of the women average fairly well with the fees paid men of similar experience for the same kind of work."

She further writes: "Law is excellent as a study for women, and, in the practice, sex is not necessarily a disability. In securing business, sex is, as yet, a hindrance, for some people have not yet discovered that women can have legal ability. From my own experience of fifteen years I have become so well satisfied that law is a proper sphere for women that I should be willing to have my daughter choose it for her vocation."

From Miss Isabella M. Pettus, who has for three years practiced in the courts of New York, I have received much information concerning the practice of law by women in that city. Many there have won success, not only in office work, but at the bar, before courts and juries. These women, many of them wives and mothers, have been none the less faithful to these "heaven-appointed" offices than before they entered the profession or than their sisters who, in other honorable professions or lines of work, help to make and keep the home. Miss Pettus, in a strong presentation in favor of woman's fitness and right to practice law, says: "I would condemn heartily the course of a wife or mother who would neglect her home and children to practice in the courts; I would praise, unreservedly, any earnest, intellectual woman who takes up 'toil unsevered

from tranquility ' and fits herself for a professional life, for the love of law and of learning, thanking God that the nineteenth and twentieth centuries have given woman freedom to work out her own life, as she will, in honor and righteousness."

And when the question in hand is examined from all sides, is not the answer found in the suggestion that, after all, women must be given freedom to settle the matter for themselves? Experience alone can determine their adaptation to the profession, and they are surely entitled to the test. If they fail, their better judgment will readily dictate the wise course to pursue. If they succeed, and the predicted dangers to home and motherhood do not come, let us, with them, rejoice in their success. We can do no less than give them every possible opportunity to determine for themselves how best to make the most of life.

We may consistently suggest, however, that there is no other profession like the practice of the law. It is a continual contest. The assertions from the minister in the pulpit are usually unquestioned and unanswered. His critics speak only in his absence. His hearers have assembled because they are in sympathy with his views and expect to agree with what he may say. So with the work of the physician. His errors may neither be all buried nor forgotten, but he can rely upon the assurance that no one will be employed to hunt for and expose them to public inspection. The teacher stands in advance of his pupils, teaching them things they have not yet learned. If, perchance, some leader of the class points out an erroneous statement, it may at once be corrected with little embarrassment. But the propositions of the lawyer in court are made in the presence of a shrewd opponent whose business it is to see the vulnerable places, point out the errors and inconsistencies and openly criticise the position assumed. His address to the jury is to be publicly answered and his conclusions refuted. He must be an antagonist because his client is. This is the life of the lawyer in court. It cannot be otherwise if success is to be won. The nervous strain borne by the law-

yer in a long, closely and often bitterly contested case, demands not only mental but physical vigor which few men possess. At the end of such a contest, where, if not the life or liberty of one's client, his property at least is lost, the lawyer must be strong indeed who can unperturbed proceed with the demands made upon him by other pressing business. Are women so constituted that they can successfully live such a life? Is such a life desirable for a woman where this strife and mental contest must be principally with men, even though she is strong, learned and experienced? Cannot a woman with such qualities utilize her life to better advantage elsewhere? Is there any crying need or pressing demand for women to practice in our courts? What great reforms, what betterment to society, would result from their assuming such onerous work?

To the woman who would enter the law, intending to take up its practice as a profession, these and many like questions must come for answer. But the answer must come from her. We have no right to deprive her of the privilege of personal experience. She has the right, and should have the privilege, of entering the bar as a practitioner on purely personal grounds, although there be no public demand or crying need for her. She should, in this matter, be just as free and independent as her brother, with the right and power to choose for herself any honorable calling, but in doing so she should, like every other citizen, select that for which she is best suited and which will bring to her and those about her the most of good and of happiness.

The following statistics and table prepared by Miss Pettus indicate the extent of the admission of women to law schools and to the practice of the law.

Thirty-four states admit women unreservedly to practice law, and wherever there are law schools in those states, with the exception of Yale and Princeton, women may be candidates for degrees. Eighty-seven have been admitted to practice in Illinois, forty in New York, thirty in Iowa, twenty in Massachu-



setts, twenty-five in Missouri, ten in the District of Columbia, twenty-five in Nebraska, nine in Oregon, "two or three" in Colorado, Kentucky, Nevada, Washington and Wisconsin, six in Michigan, two in Florida, Idaho and Connecticut, one in Arizona, Maine, Montana, Utah, North Dakota, Tennessee and Wyoming. From Pennsylvania the number is uncertain, because there admission is by county and the number could not be ascertained by inquiry. From California, Kansas, Indiana and Texas the answer is "but few."

Virginia, Alabama, Arkansas, Delaware, South Carolina and Vermont prohibit woman's entrance to the bar.

In Georgia, Louisiana, Maryland and Rhode Island, "Law is silent—none have ever applied." Yet Maryland and South Carolina admit them to their law schools.

In Missouri and California nine have graduated from the law schools, in Illinois and Massachusetts, twenty-five, eight in Wisconsin, twenty in Michigan, sixty-five in New York, about nine in Nebraska, ten in Kansas, fourteen in Iowa, three in Oregon, the same in Washington, four in Pennsylvania, one in Colorado, and from other schools an indefinite number.

So far as we can discover with exactness, admission was by statute in New York, Iowa, Illinois, Maine, Massachusetts, Montana, Nevada, North Dakota and New Jersey; by decree of court in Pennsylvania, Connecticut, New Hampshire, North Carolina and Wisconsin; "always," "never prohibited," in Arizona, California, Colorado, Florida, Kansas, Michigan, Minnesota, Mississippi, Ohio, Oregon, South Dakota, Texas, Utah, Washington and Wyoming.

Women admitted to the Bar. State.	Date of admission to practice.	Remarks.	How many have been admitted?	Women admitted to law schools.	Date.	How many have been graduated
Arizona, . . . .	since state	since Arizona had existence	1	no		no law department
California, . . .	1873	—	few	yes	1893	about 9
Colorado, . . .	1891	probably always eligible	3	yes	since 1892	1
Connecticut, . .	—	by counties	2	no		not in Columbian University since organization
Dist. of Columbia,	1873	3 are in practice	10	—		
Florida, . . . .	1845	never prohibited	2	yes		no post-graduates
Idaho, . . . . .	1899	February 3	2	yes	some years	only a few
Indiana, . . . .	—	number of years	few	yes	1865-68	12 to 15
Iowa, . . . . .	1870	ever since 1870	30	yes	—	10
Kansas, . . . .	1861	ever since Kansas was a state	not many	yes		
Kentucky, . . .	—	within 2 or 3 years	2 or 3			
Illinois, . . . .	1872	by statute	87	yes	1884-85	25
	1870	by decree				
Maine, . . . . .	1872 & 1899	by statute	1	yes	1898	25
Massachusetts, .	1882	by statute 139	20	yes	1872	20
Michigan, . . .	about 1880	always	5 or 6	yes	1869	in Baltimore Law School
Maryland, . . .	—	none have applied	—	yes	—	7
Minnesota, . . .	—	since adoption of Constitution	9	yes	—	but none have applied
Mississippi, . .	—	there is no restriction	none	yes	—	some are soon to be admitted
Montana, . . . .	1889	by statute since a state	1	yes	—	9
Missouri, . . .	1865	word "male" omitted	25	yes	1890	7 to 10
Nebraska, . . .	1880	at least 20 years	25+	yes	always	no law school
Nevada, . . . .	1864	by statute 93	3	—	—	no law school
New Hampshire, .	2 or 3 years	Judge Doe's decree	—	—	—	
New York, . . .	1888	by statute	40+	yes	1890-98	
New Jersey, . .	—	—	1	no		
North Carolina, .	1878	—	1	yes	1899	new law department
North Dakota, .	1896	probably by statute	1	yes		1
Ohio, . . . . .	—	never a law against it	—	yes	—	none have ever applied
Oklahoma Ter., .	—	no law prohibits	—	—	—	3
Oregon, . . . .	1885	—	9	yes	—	4
Pennsylvania, . .	—	admission by counties	+	yes	—	in South Carolina College
South Carolina, .	—	—	—	yes	—	no law school
South Dakota, . .	—	—	—	yes	—	none have applied
Tennessee, . . .	1897	not eligible as notary	1	yes	—	none
Texas, . . . . .	1836	since organization	few	yes	—	
Utah, . . . . .	—	always except	1	yes	—	
Washington, . . .	—	never prohibited	3	yes	—	always 2 or 3
West Virginia, .	—	they are admitted	—	yes	—	in Morgantown University
Wisconsin, . . .	1874	—	2	yes	—	same as men, 8
Wyoming, . . . .	1899	never prohibited, law was silent	1	yes	—	to preparatory law department

Alabama: prohibits.

Arkansas: prohibits. None have attended.

Delaware: prohibits by statute 1900.

Georgia: no law on the subject, and no women who desire to study law.

Louisiana: law is silent.

Maryland: law is silent. None have applied.

Rhode Island: none have been admitted. None have applied.

Vermont: no. No law schools.

Virginia: no. One applied, refused. None have applied.

South Carolina: no. Yes, one who did not graduate. One in the Klondike.

Some in Canada.

PROCEEDINGS  
OF THE  
SECTION OF PATENT, TRADE MARK AND  
COPYRIGHT LAW.

*Denver, August 22, 1901, 3 o'clock P. M.*

The annual meeting of the Section was held at the Brown Palace Hotel.

Present: Edmund Wetmore, Harold Binney and Thomas J. Johnston, of New York; Lester L. Bond, Robert H. Parkinson, George P. Barton and E. B. Sherman, of Illinois; Charles Martindale, of Indiana; Charles J. Hughes, Jr., of Colorado; J. Nota McGill and Melville Church, of the District of Columbia.

In the absence of both the Chairman and Secretary, Lester L. Bond was made Chairman *pro tempore*, and Melville Church was made Secretary *pro tempore*. A letter from Frederick P. Fish, Chairman of the Section, was then read and was ordered to be made a part of the minutes.

It was as follows:

CHICAGO, August 16, 1901.

*To the Patent Section of the American Bar Association,  
Denver, Colorado:*

GENTLEMEN:—I regret my inability to attend the meeting of the Patent Section of the American Bar Association for the year 1901, but I regret even more that the cause of my absence is my withdrawal from the profession, in which I have worked side by side with the members of this Section, for so many years. Whatever may be my future in my new work, I shall never forget the old. I shall never fail to

remember with the greatest pleasure my association professionally and personally with the members of this Section of the American Bar Association, whose standards of courtesy, as well as of professional ethics, may be approached, but certainly cannot be exceeded by any class of lawyers now practicing in the world. There is not one of you with whom I have not had delightful personal relations. There is not one of you the thought of whom does not suggest many pleasing episodes in the past. I wish you all health, happiness and prosperity, and, although I say farewell to you as lawyers, it is with the hope that our friendship will be in no way abated, even if I have withdrawn from the work (there is none higher or more worthy) which brought us together and established us in such close relations.

I have but little to say as to the work of our Section of the Association during the past year. We have accomplished but little. Circumstances have not been propitious for the development of any of the plans for the improvement of the Patent law and practice which we have discussed at other meetings of the Association.

The only matter which even now seems in shape for legislative action is the Trade-Mark situation, as to which the Commissioners appointed by Congress have made a long and interesting report.

While I commend this report to your attention, I am inclined to the opinion, which I advance with special deference now that I am no longer a practising lawyer, that further Trade Mark legislation is not really necessary for the adequate protection of Trade Mark property, and that there is great danger that any legislation now in contemplation would result rather to the disadvantage than to the advantage of the owners of Trade Marks as well as of the public.

I know that my views on this point are shared by some of your number, and have no doubt that that side of the argument will be presented by those with whom I agree, in a much more satisfactory shape than is possible for me in the limited time at my disposal.

I trust that you will hear from the various committees of the Section their views and suggestions as to the particular matters that have been submitted to them respectively. I regret to say that the engrossing character of my new work, to which I have been forced to give all my time and attention, has made it impossible for me even to keep in touch with the more recent proceedings of those committees.

I am more than ever satisfied that the subjects to which we have given attention in the past, the establishment of a Court of Patent Appeals as outlined in Judge Taylor's paper of last year, the reforms in the method and procedure of the Patent Office, the clarification of the Copyright law and the proposed Trade Mark legislation, demand, and should receive, your careful attention, and are worthy of strenuous action when the proper time comes.

From many points of view I am sorry to leave the active practice of the law, but almost my greatest regret is because of the fact that I shall no longer be in a position to co-operate with you in these matters.

There is one subject, so serious and so difficult that only its transcendent importance justifies me in reminding you of it, to which this Section will, I hope, at some time be able to give attention. I refer to the method of taking testimony in patent causes under the 67th Rule in Equity of the Supreme Court. No method of taking proof could be more cumbersome or less calculated to develop the facts of a controversy than that to which litigants in patent cases are now confined. No system of procedure could be more expensive or less fair to the parties, the witnesses and the courts.

I, personally, see no direction in which you can work to advantage with the view of a reform in this matter, except by directing your efforts towards securing a sufficient number of Judges, Vice Chancellors or Masters (call them what you please) with *magisterial* powers, to enable the bulk of the testimony in a patent cause to be taken in open court. Such is substantially the English system, which I believe to work well.

They who suggest or secure an adequate reform in this important matter will surely deserve well of the Republic.

With best wishes for the success of the current meetings of the American Bar Association and of the Patent Section of that Association, and with warm regards to all those to whom this letter is addressed, I remain,

Sincerely yours,

FREDERICK P. FISH.

On motion of Edmund Wetmore, it was unanimously

*Resolved*, That the Patent Section of the American Bar Association learns with regret that Mr. Frederick P. Fish, its late Chairman, has relinquished active practice at the Bar to assume the presidency of the American Telephone and Telegraph Company. The regret is for the loss of his services and companionship. We here record our pride in his brilliant career as a lawyer in the branch of the profession to which we are especially devoted, and our appreciation of all that he has so successfully accomplished for the improvement of the patent laws of the country, by his labors, and the noble example of high attainment he has set by his practice under them. We do not relinquish the hope that we may still have the benefit of his counsel, and rejoice that he still remains one of our brotherhood. We can give him no more sincere wish for the future than that his success in his new and responsible office may equal that which he has achieved in our own loved and honorable profession.

The report of the committee appointed at the last meeting to draft a bill regulating appeals in the Patent Office was presented by Melville Church, of the District of Columbia, and, after discussion by Robert H. Parkinson, Thomas J. Johnston, J. Nota McGill and Melville Church, was adopted and the form of bill proposed by the committee approved.

[*See Report and form of Bill at end of these Minutes.*]

A general discussion of the subject of pending Trade Mark legislation ensued, but no definite action was taken in respect thereto.

In view of the resignation of Frederick P. Fish as a member of the Standing Committee on Patent, Trade Mark and Copyright Law of the American Bar Association, a resolution recommending the appointment of Edmund Wetmore to fill the vacancy created by such resignation was unanimously adopted.

The annual election of officers was then proceeded with and resulted in the election of Lester L. Bond, of Chicago, as Chairman, and Melville Church, of the District of Columbia, as Secretary.

On motion, adjourned.

MELVILLE CHURCH,  
*Secretary pro tempore.*

*To the Section of Patent, Trade Mark and Copyright Law  
of the American Bar Association :*

Your committee appointed at the last meeting to draft a bill regulating appeals in the Patent Office (Rep. Am. Bar Assn., 1900, p. 505), beg leave to report as follows :

Under the present statutes, where an application for a patent is twice rejected by the Primary Examiner, the applicant may appeal, first, to the Board of Examiners-in-Chief—a tribunal composed of three members—then to the Commissioner of Patents in person, and, finally, to the Court of Appeals of the District of Columbia, consisting of three judges. Should the decision of the Court of Appeals be adverse, the applicant has a further remedy by bill in equity filed in the Supreme Court of the District of Columbia, the Commissioner of Patents being made a party to the proceeding. From the decree of the Supreme Court of the District of Columbia in such a suit appeal will lie to the Court of Appeals of the District of Columbia, the decision of the last-named court being final.

In interference cases the question of priority of invention is first determined by a Primary Examiner called the Examiner of Interferences, and from his decision the same series of appeals and the same equity proceeding allowed in *ex parte* cases may be pursued, with the difference, however, that in the equity proceeding the bill must be filed against the adverse applicant or patentee, as the case may be, in the jurisdiction where he may be served with process, and the Commissioner of Patents is not a necessary party.

Your committee believe that there is no necessity for so many appeals in either *ex parte* or interference cases, but are persuaded that it is expedient, at this time, to ask Congress to curtail the number of appeals in interference cases only.

In *ex parte* cases, where the struggle on the part of the applicant is to establish the patentability of his invention and where the entire expenses of appealing fall upon himself only, no special hardship results in permitting him to appeal till the present long line of appeals or his pocket-book is exhausted; but in interference cases, where the sole question for determination is that of priority of invention in respect of subject matter already decided to be patentable, where every appeal not only delays the adverse party, but necessarily lays him under heavy expense, if he would protect his rights, without even the satisfaction of a decree for costs, the demand is imperative for a reduction of the number of allowable appeals.

The appeal that can best be omitted is, in the opinion of your committee, that to the Board of Examiners-in-Chief. The elimination of this appeal retains the appellate jurisdiction of the Commissioner, who is, under present law, both the executive and quasi-judicial head of the office, and corrects the anomaly of an appeal from one to three and from three to one, as at present. Your committee have prepared, and present herewith, a bill which, they think, will accomplish the desired result. Such a bill your committee believes will receive the favorable consideration of Congress. It creates no new offices,



calls for no increased appropriations and only in a very slight degree disturbs existing procedure.

It is proper to say, and your committee take pleasure in saying, that, in thus recommending the cutting out of the appeal to the Board of Examiners-in-Chief in interference cases, your committee intend no criticism of the ability of that tribunal to deal with such cases. Their judgments in the past, in that class of cases, have always been well considered and have been, perhaps, more generally satisfactory than those of any other tribunal in the Patent Office, and their judgments, it is stated on good authority, have been more generally affirmed by the courts than those of the Commissioners. It is only because less disturbance of the present system will, in the opinion of your committee, be created by the elimination of the appeal to the Board than by cutting off the appeal to the Commissioner, that the retention of the appeal to the latter is recommended.

The appellate jurisdiction of the Board in *ex parte* cases will not be disturbed by the proposed bill, and the decisions of that excellent tribunal on questions of patentability, characterized, as always, by a fine sense of liberality to the inventor, may be looked forward to with confidence by both applicants and the bar.

Respectfully submitted,

MELVILLE CHURCH,  
ARTHUR P. GREELEY,  
WILLIAM C. STRAWBRIDGE.

August 22, 1901.

#### AN ACT REVISING AND AMENDING STATUTES RELATING TO PATENTS.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled :

Section 1. That section four hundred and eighty-two of the Revised Statutes be, and the same hereby is, amended by

striking out the words "and in interference cases" between "patents" and "and," line 5, so that the section as amended will read as follows:

"Sec. 482. The Examiners-in-Chief shall be persons of competent legal knowledge and scientific ability, whose duty it shall be, on the written petition of the appellant, to revise and determine upon the validity of the adverse decisions of Examiners upon applications for patents and for reissues of patents; and, when required by the Commissioner, they shall hear and report upon claims for extensions and perform such other like duties as he may assign them."

Sec. 2. That section forty-nine hundred and four of the Revised Statutes be, and the same hereby is, amended by striking out the words "or of the Board of Examiners-in-Chief, as the case may be," from lines eight and nine, so that the section as amended will read as follows:

Sec. 4904. Whenever an application is made for a patent which, in the opinion of the Commissioner, would interfere with any pending application or with any unexpired patent, he shall give notice thereof to the applicants, or applicant and patentee, as the case may be, and shall direct the Primary Examiner to proceed to determine the question of priority of invention. And the Commissioner may issue a patent to the party who is adjudged the prior inventor, unless the adverse party appeals from the decision of the Primary Examiner within such time—not less than twenty days—as the Commissioner shall prescribe.

Sec. 3. That section forty-nine hundred and nine of the Revised Statutes be, and the same hereby is, amended by striking out the words "and every party to an interference," lines two and three; and by striking out the words "or of the Examiner in charge of interferences in such case," line four, so that the section as amended will read as follows:

Sec. 4909. Every applicant for a patent or for the reissue of a patent, any one of the claims of which have been twice rejected, may appeal from the decision of the Primary Exam-

iner to the Board of Examiners-in-Chief, having once paid the fee for such appeal.

Sec. 4. That section forty-nine hundred and ten be, and the same is hereby amended, by striking out the word "party," line one, and inserting "applicant," and by inserting between the words "Examiners-in-Chief" and "he," line two, the words "or if a party to an interference case is dissatisfied with the decision of the Examiner in charge of interferences," so that the section, as amended, will read as follows :

Sec. 4910. If such applicant is dissatisfied with the decision of the Examiners-in-Chief, or if a party to an interference case is dissatisfied with the decision of the Examiner in charge of interference, he may, on payment of the fee prescribed, appeal to the Commissioner in person.

Sec. 5. That the ninth clause of section forty-nine hundred and thirty-four of the Revised Statutes be, and the same hereby is, amended by inserting between the words "Examiners-in-Chief" and "to," line fifteen, the words "or from the Examiners in charge of interferences," so that the said clause, as amended, will read as follows :

On every appeal from the Examiners-in-Chief or from the Examiner in charge of interferences to the Commissioner, twenty dollars.

## ASSOCIATION OF AMERICAN LAW SCHOOLS.

The first annual meeting of the Association of American Law Schools convened in the Tabor Opera House, Denver, on Wednesday, August 21, 1901, at 3 o'clock P. M.

In the absence of James B. Thayer, of Harvard University, President of the Association, William P. Rogers, of Indiana University, was elected Chairman.

The following schools were represented through the delegates named:

Boston University Law School: Samuel C. Bennett.

Buffalo Law School: James Parker Hall.

Cincinnati Law School: Charles M. Hepburn.

Cornell University, College of Law: E. W. Huffcut, Frank Irvine.

Harvard University Law School: Joseph H. Beale, Jr.

University of Illinois, College of Law: Wm. L. Drew.

Indiana University, School of Law: William P. Rogers, G. L. Reinhard.

University of Iowa, College of Law: Emlin McClain, Charles Noble Gregory, Harry Sanger Richards.

Iowa College of Law: C. C. Cole.

University of Michigan, Department of Law: V. H. Lane.

University of Minnesota, College of Law: A. C. Hickman, James Paige, H. S. Abbott, Frederick V. Brown.

University of Missouri: H. B. Babb.

New York University School of Law: Clarence D. Ashley, F. H. Sommer, L. J. Tompkins.

Northwestern University Law School: Edwin Burritt Smith, Edward Avery Harriman.

St. Louis Law School: W. S. Curtis.

Western Reserve University, Franklin T. Backus Law School: Alexander Hadden, E. H. Hopkins.

University of Wisconsin College of Law : Howard L. Smith,  
R. M. Bashford, A. A. Bruce.

Yale Law School : William K. Townsend, Simeon E.  
Baldwin.

The minutes of the meeting for organization, held at Saratoga, August 28, 1900, were approved as printed in the report of the American Bar Association for 1900, pp. 569-575.

On motion, the Chair was authorized to appoint a committee of five for the nomination of officers. The Chair appointed as such committee :

Charles Noble Gregory,  
Joseph H. Beale, Jr.,  
Clarence D. Ashley,  
Edward A. Harriman,  
G. L. Reinhard.

The following report was presented by the Treasurer :

# TREASURER'S REPORT.

August 28, 1900-August 21, 1901.

## *Dr.*

To dues of twenty-seven members, . . . . .	\$270 00	
dues of two schools not yet elected, . . . . .	20 00	
	—————	\$290 00

## *Cr.*

By printing and envelopes, . . . . .	\$26 75	
clerk hire, . . . . .	8 00	
expenses Executive Committee meeting, . . . . .	122 80	
postage and telegrams, . . . . .	15 58	
balance with Ithaca Trust Company, . . . . .	116 87	
	—————	\$290 00

E. W. HUFFCUT,  
*Treasurer.*

On motion, the Treasurer's report was referred to an auditing committee. The Chair appointed as such committee Charles M. Hepburn, W. S. Curtis and E. H. Hopkins.

The Secretary read the following report of the Executive Committee :

REPORT OF THE EXECUTIVE COMMITTEE OF THE ASSOCIATION  
OF AMERICAN LAW SCHOOLS.

*To the Association of American Law Schools :*

The Executive Committee of the Association of American Law Schools presents the following report of its proceedings from August 28, 1900, to this date.

It directed the Secretary of the Association to send to all law schools represented at the meeting at Saratoga on August 28, 1900, a copy of the Articles of Association, together with a communication directing their attention to the third section of the Articles under the provisions of which schools having delegates at the Saratoga meeting and signing the Articles before July 1, 1901, shall be deemed members of the Association provided such schools shall comply with Article 6. The Secretary complied with this direction. A blank form of certificate to the effect that the school does comply, and expects to continue to comply, with the requirements of Articles 6 and 7 was also included. Of the schools represented at the Saratoga meeting the following have signed and returned the certificate, and have thereby become members of the Association :

Baltimore Law School.

Boston University Law School.

Buffalo Law School.

Cincinnati Law School of the University of Cincinnati.

Columbia University, School of Law.

Columbian University, Law School.

Cornell University, College of Law.

Harvard University, School of Law.

University of Illinois, College of Law.

Indiana University, School of Law.

University of Iowa, College of Law.

Iowa College of Law (Des Moines).  
University of Maine, School of Law.  
University of Michigan, Department of Law.  
University of Minnesota, College of Law.  
University of Missouri, Law Department.  
New York University Law School.  
Northwestern University Law School.  
Ohio State University Law School.  
University of Pennsylvania, Department of Law.  
Pittsburg Law School.  
St. Louis Law School.  
Syracuse University, College of Law.  
University of Tennessee, Law School.  
Western Reserve University, Franklin T. Backus Law School.  
University of Wisconsin, College of Law.  
Yale University Law School.

The Committee also directed the Secretary to send to all schools not represented at Saratoga a copy of the Articles of Association, together with a blank form of application for membership. The Secretary complied with this direction and sent these documents and a special communication to each professor as well as to the Dean of all law schools of which he had any information. As a result the following schools applied for membership:

The Hastings Law School of the University of California.  
University of Colorado, School of Law.  
Denver Law School.  
University of Kansas, School of Law.  
Leland Stanford, Jr., University, Department of Law.

The Chicago Law School, through its Dean, made application for membership in the Association. Subsequently the Dean, who signed the application, notified the Secretary that he had retired from his connection with the school and could no longer be responsible for its policy. The Secretary communicated with his successor, inquiring whether it was desired

to confirm the application for membership or withdraw it, but no reply was made to this inquiry.

On June 14, 1901, your Committee met in New York City, Messrs. Thayer, Sharp, Biggs and Huffcut being present, and considered the above applications. Upon an examination of the requirements for admission, the course of study, the conditions imposed for the conferring of degrees, and the equipment as concerns library, it was found by your Committee that the following applicants fulfill the requirements of Article 6, and the Committee recommends that they be elected to membership:

The Hastings Law School of the University of California.

University of Colorado, School of Law.

Denver Law School.

University of Kansas, School of Law.

Leland Stanford, Jr., University, Department of Law.

Upon a like examination as concerns the Chicago Law School, the Committee determined that the Chicago Law School is found not to fulfill the requirements of Article 6, subsection 1, as to preliminary education, in that it is stated on page 5 of the announcement of said school that "graduates of high schools or academies of approved standing will be admitted without examination; all other applicants must satisfy the faculty that their educational attainments will justify their entering upon the practice of law when their legal studies are completed." It is believed by your Committee that no such vague statement concerning the requirements for preliminary education should be accepted, but that, in each case, there should be a definite and specific statement of the subjects in which the student will be examined in lieu of the presentation of the certificates provided for in Article 6, subsection 1, of the Articles of Association. The said school is further found not to comply with Article 6, subsection 1, as to preliminary education, in that it appears on page 6 of said announcement that students may be admitted to advanced standing upon cer-



tificates from other law schools, and no requirement as to preliminary education seems to be imposed.

Your Committee would further report that the Chicago Kent College of Law, which was represented at Saratoga last summer, sent in a certificate of membership on the 18th day of July, 1901, but that under Article 3 of the Articles of Association your Committee did not feel that it had power to accept this certificate. It therefore refers the matter to the Association without recommendation.

Your Committee would further report that the Georgetown University Law School filed an application for membership less than ninety days before this annual meeting, and that your Committee did not feel at liberty, under Article 11 of the Articles of Association, to act upon this application. It therefore recommends that the application be referred to the incoming Executive Committee for action.

The following resolutions, introduced at the meeting at Saratoga last August, were referred to your Committee to examine and report :

(1) *Resolved*, That after examination by the faculty a candidate who has given one year or more to private study of law may be granted an advanced standing of one year.

(2) *Resolved*, That the Executive Committee be requested to consider and report to the Association what credit, if any, on account of law courses, should be given to students holding degrees in letters or science.

(3) *Resolved*, That it is the opinion of this organization that the degree of a law school ought not to admit to the bar, but that admission to the bar should be only after examination by a State Board of Law Examiners, which Board should be appointed by the highest appellate court of the state.

(4) *Resolved*, That the Executive Committee be requested to consider and report to the Association what degrees should be conferred by law schools and the conditions upon which such degrees should be granted.

After considering these resolutions your Committee recommends that the following resolution be substituted in place of the first two resolutions, and recommends that the same be passed by the Association :

*Resolved*, That candidates for degrees should not be admitted to advanced standing unless upon satisfying the requirements of Article 6, subsection 1, of the Articles of Association as to preliminary education, and by passing a satisfactory examination in all the subjects of the first year of the school or by presenting satisfactory certificates of equivalent work in another school maintaining the standards fixed by Article 6 of the Articles of Association.

Your Committee further recommends that the following two resolutions be substituted in place of the resolution numbered 3, above, and these resolutions be passed by the Association :

*Resolved*, That the degree of a law school should not admit to the bar.

*Resolved*, That admission to the bar should be only after examination by a State Board of Law Examiners appointed by the highest appellate court of the state.

Your Committee would further report that it is unable to reach any conclusion at present upon the question presented in the fourth resolution above and recommends the reference of said resolution to a special committee to investigate and report.

In addition to its action upon the above resolutions your Committee recommends the adoption of the following resolutions by the Association :

*Resolved*, That the members of the Association be requested to print in their annual announcements the fact of their membership in the Association.

*Resolved*, That the Association recommends that the expenses of delegates to the annual meeting of the Association be paid by the schools appointing them.

Your Committee would further report that under the special proviso of subsection 1 of Article 6 of the Articles of Association, it had no discretion in the matter of determining whether

schools represented at the Saratoga meeting last year comply with the requirements of said subsection. Some examination of the printed announcements of these schools leads your Committee to believe that not all of them complied with the requirements of this subsection at the time such announcements were issued. It is to be presumed, however, that they will comply with such requirements by September, 1901. Under the provisions of Article 10 of the Articles of Association it will become the duty of the succeeding executive committee to examine more closely into this matter and determine whether the requirements of Articles 6 and 7 are complied with by all members of the Association. In the judgment of your Committee the usefulness and success of the Association will depend very largely upon the strict adherence to the moderate requirements fixed in the Articles of Association as a condition to membership.

Respectfully submitted.

JAMES B. THAYER,  
*Chairman.*

The recommendations of the Executive Committee were taken up for consideration.

On motion, the following schools, recommended for membership by the Committee, were duly elected :

The Hastings School of Law of the University of California.

University of Colorado, School of Law.

Denver Law School.

University of Kansas, School of Law.

Leland Stanford, Jr., University, Department of Law.

On motion, the delegates present from the above schools were given full standing. These were :

University of Colorado, School of Law : C. M. Campbell, Moses Hallett.

Denver Law School : Tyson S. Dines, G. C. Manley, Lucius W. Hoyt.

University of Kansas, School of Law: W. E. Higgins, J. W. Green.

Leland Stanford, Jr., University; James Parker Hall.

A motion to waive the provisions of the Articles of Association and admit schools which had not filed their application and submitted their proofs to the Executive Committee, was ruled by the Chair to be out of order, as contrary to the constitutional provisions.

The recommendation of the Executive Committee concerning the application of the Chicago Law School was adopted.

It was voted that the Secretary should notify the Chicago-Kent School that on account of its certificate of membership being filed after the 15th of July the same could not be accepted, but that, as an application for membership, it would be referred to the incoming Executive Committee.

On motion, the courtesy of the floor was extended to representatives present from law schools which were not members of the Association.

The report of the Executive Committee upon the application of the Georgetown University Law School was adopted.

It was voted to recommit to the Executive Committee the original resolutions (1 and 2 above) and the substitute resolution recommended by the Committee, and that the Executive Committee be instructed to print next year its report in advance of the annual meeting and send a copy to every law school that may then be a member of the Association.

It was moved that the Committee's substitute for the third resolution referred to it be adopted. It was moved as an amendment that the resolution and the substitute recommended be recommitted.

Upon a vote taken the motion to recommit was lost and the recommendation of the Executive Committee was adopted.

The recommendation of the Executive Committee that the fourth resolution referred to it be referred to a special committee was adopted. On motion, it was voted that the special committee consist of three members and be appointed by the incoming President.

The recommendation of the Executive Committee that members of the Association be requested to print in their annual announcements the fact of their membership in the Association was adopted.

It was voted that the Association recommend that the expenses of delegates to the annual meeting of the Association be paid by the schools appointing them.

On motion, it was voted that the Executive Committee be requested to print its report and mail it to the members of the Association at least twenty days before the annual meetings of the Association.

On motion, it was voted that the incoming Executive Committee consider and report whether it is feasible to amend the Articles of Association so as to require schools to send representatives to each annual meeting, and whether schools in default for two consecutive years should retain their membership.

The committee appointed to audit the Treasurer's accounts reported that it had examined the report and vouchers and found the same entirely correct. On motion, the report was accepted, and the Treasurer's report accepted and approved.

On motion, it was voted that the Executive Committee be requested to confer with the Executive Committee of the Section on Legal Education of the American Bar Association and consider whether it is desirable to prepare a joint programme for the discussion of topics connected with legal education.

The Secretary read a communication from James B. Thayer, President of the Association, concerning a possible defect in the Articles of Association, in that they do not specify any examination test for the passing of students from one year to the next.

On motion, it was voted that the Association express its regret that ill-health prevented the attendance of the President and it was further ordered that his communication be referred to the Executive Committee with the request that the Committee report at the next annual meeting as to the matters concerning which action is suggested.

The Committee on Nominations reported as follows:

For President: Emlin McClain, of the Iowa State University.

For Secretary-Treasurer, Ernest W. Huffcut, of Cornell University.

For members of the Executive Committee: Simeon E. Baldwin, of Yale University; William P. Rogers, of Indiana University; and William S. Curtis, of the St. Louis Law School.

On motion, the report was adopted; the Secretary was instructed to cast the ballot of the Association for the candidates named, and they were declared duly elected.

On motion, the Association adjourned *sine die*.

E. W. HUFFCUT,  
*Secretary.*

# OBITUARIES.

## ARIZONA.

### CHARLES WESTON WRIGHT.

Charles Weston Wright, son of Dr. Samuel Sidney Wright and Mary Louise Weston, was born in Rochester, New York, December 12, 1842. Ten years later his family removed to Michigan. He was graduated from the law department of the University of Michigan in 1864, and engaged in the practice of his profession at St. Joseph, Missouri.

In 1871 Mr. Wright became a resident of Denver and was recognized as a leader in the social, political and legal life of Colorado. He was the first Attorney-General of that state and for a time was Judge of the Arapahoe County District Court.

In 1889 he removed to Tucson, Arizona, where he remained until his death on the 7th of December, 1900.

During the eleven years of his residence in Arizona no questions of importance arose, either in law or politics, in which he did not take a prominent part. He had a large and lucrative practice. In social affairs his effective repartee and genial humor made him always a favorite.

His last work of a public nature was the revision and codification of the Arizona laws, for which purpose he was appointed by Governor N. O. Murphy as chairman of the Commission provided by the legislature. It was a fit recognition of his ability and standing as a lawyer.

His profound knowledge of political history and economic problems was illuminated by the same keen wit and homely eloquence which made his efforts at the bar so brilliant; his political disquisitions were masterpieces of oratory.

He left a wife and two sons, the younger of whom, John B. Wright, has succeeded to his father's practice.

## ARKANSAS.

## STERLING ROBERTSON COCKRILL.

Sterling Robertson Cockrill was born at Nashville, Tennessee, on the 26th of September, 1847. When a mere boy he went into the Confederate army as a private. The close of the war found him a sergeant of artillery in the army of Gen. Joseph E. Johnston, with the rudiments of an education acquired for the most part at a military school at Marietta, Georgia. At the close of the war he entered the Washington and Lee University and there remained until he was graduated. He then took a course of law studies in the Cumberland University, at Lebanon, Tennessee, and received the degree of Bachelor of Law. His father, an extensive and successful planter, having in the meantime removed to a plantation near Pine Bluff, Arkansas, Mr. Cockrill was admitted to the bar in that state in 1870, and began the practice of his profession in Little Rock as a partner of A. H. Garland, afterwards Attorney-General of the United States. In 1884 he was elected to fill a vacancy as Chief Justice of the Supreme Court of the state,—that being the court of last resort,—and was re-elected in 1888 for the full term of eight years. He resigned this office in 1893 on account of the insufficiency of the salary for the support of himself and his family, and at once returned to the bar and entered upon a large and constantly increasing practice. In the meridian of life and the full vigor of manhood he was attacked by a violent form of pneumonia and died, in the fifty-fourth year of his age, on the 12th of January, 1901, at his home in Little Rock.

Judge Cockrill married, in 1872, Miss Mary Ashley Freeman, and she and six children survive him.

Judge Cockrill was remarkable for ability of a high order—displayed both on the bench and at the bar. Studious, learned, discriminating, firm, laborious and dispassionate, he possessed the best qualities of a judge in an eminent degree, and presided over the deliberations of the court with a skill, efficiency



and distinction not often equalled. His reported decisions are models of succinct, accurate and logical reasoning presented with the utmost clearness, equally free from digression, repetitions or redundancy. The same qualities that established his reputation on the bench marked his career at the bar. Whether in written or oral discourse he showed a remarkable talent for conveying his thoughts in a forcible and striking manner and with the utmost accuracy and precision—a natural gift improved by cultivation, unremitting study and the most thorough preparation. Affectionate in his family, devoted to his friends, a man of the highest integrity, his standing at the bar is sufficiently attested by the fact that he was unanimously elected, in the year 1900, as President of the State Bar Association—a position that he held when the profession and the community were suddenly and unexpectedly called upon to deplore his loss. Judge Cockrill was held in the highest respect by all classes, and his memory will long be affectionately cherished by those who knew him best and who are best qualified to appreciate genuine worth.

## ILLINOIS.

### ANDREW CRAWFORD.

Andrew Crawford, who died in Chicago, November 22, 1900, was one of the leading corporation lawyers of that city. For twenty years he had been the western representative of J. P. Morgan, of New York, and Drexel & Co., of Philadelphia. Of recent years his attention was devoted almost exclusively to private investments.

Mr. Crawford was, in the fullest sense, the architect of his own fortune. A native of Scotland, born in Ayrshire, December 1, 1831, he came to this country at the age of twenty-one and first gained employment in the engineering corps of the Atlantic City Railway. After working on this line for some time he came into the employ of the Rock Island Railroad and

located at Geneseo, Illinois. Here Mr. Crawford became a prominent factor in the development of that section of the country, and from 1868 to 1872 was a member of the state Senate. While living at Geneseo he organized the First National Bank there and was its president until after he removed to Chicago in 1873. In Chicago his ability as a judge of property values and of investments gave him a large clientage. He was one of the incorporators of the Chicago & Western Indiana Railroad and was interested in many important enterprises of the city. Mr. Crawford was the organizer of and a large holder of stock in the Graham & Morton Transportation Company. In politics Mr. Crawford was a staunch Republican. During the administration of Governor Altgeld, however, he was President of the Lincoln Park Board, and in all matters of importance his advice was invaluable.

He married Sarah L. Baxter at Geneseo in 1869. Besides his widow, five children survive him—Richard C. Crawford, Mrs. Burdette C. Barnes, Mrs. Thomas G. Milsted, Mrs. Frank P. Graves and Andrew H. Crawford, all residing in Chicago.

The career of Mr. Crawford is an example of the possibilities for the advancement of men in this country. In school in Scotland only until his twelfth year, at that age he began labor in a coal mine during the day and attended a night school in the evening. At this night school he secured a knowledge of Latin, French and mathematics. At the age of fifteen he was indentured as an apprentice for five years to an iron company for an average of £25 per year. While serving his apprenticeship he learned mining and engineering and general surveying. His acceptance of the meager advantages of his youth gave him the foundation of a broad general knowledge which was as a storehouse of resources in later life.

Though not in any sense of the term a society man, Mr. Crawford had a very wide circle of friends. He possessed a peculiar quality of being interested in the careers of others and the number of those relying upon his advice in personal

matters was without count. He was a loyal friend and possessed of a sound judgment that made his advice and counsel sought far and near.

The characteristic of minute and strict integrity was so apparent in all his business and social life as to impress all who knew him. In religion he had no denominational affiliation, but his life was rather a constant, patient and inflexible attempt everywhere and always to apply the golden rule; and with it he developed a life preëminently clean, conscientious, unostentatious and just, trusted and admired by all his business associates and most tenderly beloved by all of his own home circle.

## INDIAN TERRITORY.

### J. B. BURCKHALTER.

J. B. Burckhalter was born on May 9, 1865, in Aiken, South Carolina, and died on April 11, 1901. He was graduated from the South Carolina College in 1887, and, after teaching school for two years, read law with Hon. G. W. Croft, of Aiken, and was admitted to practice in 1890. He pursued his profession for two years in his native state, at the town of Barnwell, as a member of the firm of Croft & Burckhalter, the senior member being his former preceptor.

Mr. Burckhalter was married to Miss Kate Myers, who, with three children, survive him. In December, 1893, he removed to the Indian Territory and located in Vinita in the Cherokee Nation. This was about the time of the establishment of a United States Court at Vinita. He came unknown to the new jurisdiction, which was then in its infancy. He and his estimable wife very soon made for themselves a permanent position in the affections of the community. During the time required by one who is a stranger and without wealth or influential friends to obtain a profitable business, the course of this family was brave and admirable, and in a comparatively

short while Mr. Burekhalter had succeeded in building up a good and profitable practice, which was constantly growing up to the time of his death. Measured by what was accomplished rather than the length of time, he lived a useful and long life. He commanded the entire confidence of all the courts in which he appeared and had the respect and good will of the members of the bar and of the community at large. He had especially that kindness, courtesy and good-fellowship which endeared him to his companions, by whom he will never be forgotten.

## INDIANA.

### WILLIAM PINCKNEY FISHBACK.

Mr. Fishback was born November 11, 1831, and died January 15, 1901. His life was an eventful one—in itself and in the times in which it was cast. The last half of the nineteenth century was full of change; up to his last hour William P. Fishback kept pace with its moral, political and intellectual progress. He was born in the town of Batavia, Clermont County, Ohio, where he passed his youth and boyhood. Going from the public schools of his home county to Miami University, in that institution he met and became the intimate friend of the young man who was afterwards to become his partner and later the President of the United States. When the President of Miami University became President of Farmers' College (now Belmont), Mr. Fishback followed him and graduated from Farmers' College in 1852. He was admitted to the bar in Ohio, and for a few years practiced law in that state, serving one term as prosecuting attorney of Clermont County. In 1857 he went to Indianapolis. In 1858 he was elected prosecuting attorney of the district, which was then made up of Marion and six other counties. In 1860 he was re-elected. His first law partnership in the state was with A. Hamilton Conner. This firm was dissolved in 1861, and the firm of

Harrison & Fishback was formed. In a short time the firm became Porter, Harrison & Fishback, and so continued until 1870, when Mr. Fishback retired from the practice of the law to become a journalist. He was editor of the *Indianapolis Journal* and thereafter of the *St. Louis Democrat*. In 1874 Mr. Fishback went to Indianapolis and returned to the practice of the law as the junior member of the firm of Porter & Fishback. In 1877 he was appointed clerk of the United States courts and Master in Chancery. He resigned the clerkship in 1879 and continued to hold the position of Master in Chancery until his death.

He was a many-sided man. For years he was one of the leaders of the bar of his state, and that at a time when it numbered in its membership many able and brilliant lawyers. He was ever jealous of the honor and dignity of his profession. With something like scorn for the technicalities of the law, which are so often employed to defeat the ends of justice, he was deeply read in the science and philosophy of his profession. He was clear and cogent in argument, skillful in the management of his cases and honest in his use of the facts. His lucidity of statement, which was a marked characteristic of his literary style, served him well in the practice of his profession. His acute and vigorous mind made it easy for him to master legal principles and to grasp the significance of the most complicated facts. Believing that a lawyer owed a duty to society as well as to his special calling, he refused to limit himself within the boundaries of his profession. He felt, indeed, that a lawyer could not be a good lawyer unless he were first a good man and a good citizen. Therefore Mr. Fishback took great interest in politics, in literature and in social movements, and he adorned and illuminated every subject with which he dealt. There were few men who had read more widely than he had or whose literary judgments were more trustworthy. He stood for the pure and elevated in literature and had nothing but contempt for the writers who pollute it. He had, indeed, a passion for clearness and purity. He was devoted to the clas-

sics and was a reverent follower of the great masters. There never was any doubt in his mind that the path to culture lay through classical rather than scientific study. A brilliant writer himself, he had a keen relish for style and an instinct for elegant and vigorous expression. As a debater he has left behind him few equals. His varied and accurate information, his acquaintance with the best that had been thought and said in the world, his command of language, his fund of anecdote, his abounding humor and shrewd and incisive wit all combined to make him a delightful associate. Mr. Fishback's independence of thought extended into the field of politics. Partisan though he was, he did not hesitate to rebuke his party or to speak his honest opinions when occasion seemed to require that he should do so. He was the friend of good causes and a leader in any movement that promised to serve the welfare of the people. He hated sham and cant and always endeavored to be honest with others and with his own conscience. His influence was always on the side of what he believed to be right. His nature was kindly and his impulses were generous. He was interested in many things and many people. His mind was broad and tolerant and his affections responded promptly to any effort to engage them. And so he had many friends, as he deserved to have. His courage was often tried, and it never failed him. He faced the last crisis with uncomplaining fortitude and calm serenity. Though his fame did not travel far, it did strike deep. "A lawyer," says Sir Walter Scott, "without history or literature, is a mechanic, a mere working mason; if he possesses some knowledge of these, he may venture to call himself an architect." Mr. Fishback was no mechanic in his profession; he was an architect. The different domains of knowledge which he had made his own were all related, and each bore on and influenced the others. And we have faith to believe that his trained faculties and his great acquirements will be called into full play in that land to which he has gone. It can not be that such abounding life as that which throbbed in his frail body is forever stilled. His

portion is not death, but that more abundant life which He, who was the Master of Life, came to the world to bestow on our infirm and mortal nature.

### BENJAMIN HARRISON.

Benjamin Harrison was the son of John Scott and Elizabeth (Irwin) Harrison. He was born in an humble house at North Bend on August 26, 1833. He was a lad of slender but wiry physique and he inherited an intellect that matured early. His father had served as Governor of the Northwest Territory and in Congress, but had retired to till the farm at North Bend. At the district school Benjamin made such rapid progress that at sixteen he entered Miami University, at Oxford, Ohio, where he continued to forge ahead so rapidly that he was graduated at eighteen. His teachers and classmates have borne testimony to the ease with which he held his own in all college contests and of his early promise of success. Prof. David Swing says that Harrison, while at Oxford, though very young, was studious and efficient and early gave evidence of being foremost in whatever he might undertake. He there acquired the habits of study and thorough discipline which characterized him through life, enabling him to concentrate his intellectual forces and give his mental energies direct and effective operation. His earliest inclination was for the law. Perhaps he inherited that bent or his mental constitution impelled him that way. Certainly no man ever possessed a more distinctively legal mind. Immediately upon leaving college he began the study of the law in the office of Judge Bellamy Storer, in Cincinnati. He was admitted to the bar before he was twenty-one. Not only had he gained a profession, but his twenty-first year saw him with a wife as well. He had but \$200, which his father gave him, he had no practice and no influence behind him, but he determined to marry and to begin a career for himself. It was in 1855 that he established himself in Indianapolis, Indiana. He looked then, the record says, like a schoolboy. Beardless, with a big, bulging head

covered with towlike hair and set upon a short, thick neck ; slender of figure, immature of voice and alone among strangers, there seemed little promise of the brilliant career which was to follow. For a long time he lived in three rooms in a little old house at the corner of New Jersey and Vermont Streets.

He was successful from the very start. One of his earliest cases concerned a legislative investigation, in which he was retained by the Democratic Governor, Joseph A. Wright. The ability he displayed in that case soon brought him other cases. In one of the earliest of these he was fortunate enough to be elected as assistant prosecutor against a woman charged with poisoning a man at the Ray House—a case which excited great public interest. A flood of clients followed. He soon became one of the foremost lawyers of the state.

In this connection lawyers will be interested in the carefully expressed estimate of General Harrison's former partner, the late W. P. Fishback, who years ago said: "He possesses all the qualities of a great lawyer in rare combination. He prepares a case with consummate skill; his written pleadings are models of clearness and brevity; he is peerless in Indiana as an examiner of witnesses; he discusses a legal question in a written brief or in oral argument with convincing logic, and as an advocate it may be said of him that when he has finished an address to the jury nothing remains to be said on that side of the case. I have often heard able lawyers in Indiana and elsewhere say that he was the hardest man to follow that they ever met. No lawyer who ever met General Harrison in a legal encounter has afterward placed a small estimate upon his ability."

It was inevitable that the young lawyer, though poor and dependent upon his daily exertions for bread, should drift into politics. The Republican party was just forming. Harrison's manhood was almost coëval with its birth. He was a good talker and he soon became known as one of the best young Republican speakers in the state. In the memorable Lincoln campaign in 1860, he and the late Mr. Hendricks happened to



have appointments to speak in the same town on the same day. It was arranged that they should divide the time, and the ability displayed by the young orator was the cause of much comment. Mr. Harrison himself was a candidate for office during this year, having been nominated for reporter of the Supreme Court. It was a position that he needed for its salary as well as desired for its honor. He shared the success of his chieftain, Lincoln, and while one went to Washington, the other was elected to the humbler office for which his fellow members of the bar considered him amply fitted.

Then came the war. Harrison was still poor and he needed all the money he could earn to support his family. But he was active in the cause, and when, in July, 1862, Governor Morton asked him to raise a regiment, he accepted the request as a command. He raised a company, was commissioned a second lieutenant, then a captain and then colonel of the Seventieth Indiana Regiment. For a time Colonel Harrison had little but garrison duty to perform in Kentucky and Tennessee, but an opportunity soon came to prove the stuff he was made of. His regiment was where the bullets flew thickest in the charge at Resaca—and the colonel was with his men. It was after that battle that the young colonel was brevetted brigadier-general. Later on, for his gallantry at Peach Tree Creek, where he led his command through the enemy's lines and back again, he was made a brigadier in full commission. General Harrison served with credit till the end of the war and escaped without injury, though he passed through the rather unusual experience of an attack of scarlet fever at the age of thirty-two.

General Harrison's political career, interrupted by the war, was destined thereafter to be one of much hard work and little reward in the form of preferment, albeit repaid liberally by great popularity and the high appreciation and warm gratitude of party leaders in many other states. While he was absent in the field, in 1863, the Supreme Court declared his office of reporter vacant, and the place was filled by another. From the time of leaving Indiana with his regiment, in 1862, until

the fall of 1864—after the capture of Atlanta—General Harrison had no leave of absence. But the Indiana Republicans, in 1864, renominated him for the office from which the court had ousted him, and, under the orders of the War Department, he at once reported to Governor Morton for duty on a thirty days' leave. He at once made a brilliant canvas of the state and was elected for another term. Then he rejoined the army and served until the surrender of Johnston and was with his command at the final review of the Union forces at Washington at the close of the war. He served out his term as reporter of the Supreme Court, but declined a reelection in 1868 and devoted himself to the practice of his profession. For eight years we almost lose sight of him as a public man in his rigid application to professional business.

In 1876 General Harrison became a candidate for Governor. The nomination came to him under peculiar circumstances. The regular party nominee, Godlove Orth, had withdrawn from the ticket and the State Central Committee chose Harrison to fill the vacancy. He was at the time absent from the state and was only apprised of the honor thus thrust upon him by a telegram which met him on the return journey. He had declined the nomination before the meeting of the convention which named Orth, but in tendering it to him again the committee said: "The nomination was made for no other purpose than to subserve the best interests of the Republican party in Indiana, and in tendering it to you we do so with the assurance that you will receive the united and earnest vote of the entire party." The nomination was entirely unsought and undesired, but it was accepted in terms that indicated a sense of public duty. Having accepted it, the General threw himself into the campaign with his usual energy. He canvassed the entire state, addressed immense audiences, was everywhere received with the utmost enthusiasm, but he was not elected. But though unsuccessful in one sense, the campaign greatly extended General Harrison's acquaintance and won him recognition as the coming man of his party. He polled nearly two thousand

votes more than the general average of his ticket, and after the October election he was in great demand as a speaker in the campaigns in other states in the East where he strengthened the good impression already formed of him.

Again, in 1880, he took a leading part in the campaign, and when it was found that the Republicans had carried the legislature he became at once the leading candidate for United States Senator. The voice of the party was unanimous in favor of the man who had been fighting its battles so long and who had been a leading figure in its history since 1856. His nomination was foreshadowed, and when the caucus met no other name was presented. His election gave the liveliest satisfaction to Republicans throughout the state. During his term of six years in the senate General Harrison won a national reputation as an able leader, a strong lawyer and a forcible debater.

In 1888 he was elected President of the United States. After his retirement from the Presidency, General Harrison was engaged by the late Senator Stanford to deliver a course of lectures at the Leland Stanford, Jr., University on constitutional law. He was chosen as counsel to represent Venezuela before the Anglo-Venezuelan Boundary Arbitration Commission. Afterward he was appointed by President McKinley as a member of the International Court of Arbitration established by The Hague Peace Conference. The eight years after he left the White House were for him years of perceptible growth. It was a remarkable thing to be true of any man at his age. His whole mind and character seemed to expand and broaden. His activities as a lawyer were never more vigorous and fruitful. Instead of a merely perfunctory return to his profession, he took it up, not only with the utmost simplicity of an American whom the fact of having held the highest office in the land did not exempt from the duty of earning his daily bread, but with zest and eagerness, flinging himself into legal contests with the energy and enthusiasm of youth.

Notwithstanding the many high places of honor which he filled, it was as a lawyer that he excelled, and his logical, incisive and sincere methods of thought and speech carried him to the leadership of the Indiana bar. He died at Indianapolis on March 13, 1901.

### WILLIAM ALLEN WOODS.

William Allen Woods was born on May 16, 1837, near Farmington, Marshall County, Tennessee. He was the youngest of three children and the only son, and he was only a month old when his father, who was a Presbyterian minister, died at the age of twenty-six years. When he was seven years old his mother married John Miller, and the family moved to Iowa and located upon a farm.

He attended school during the winter months until he was nearly fourteen years old. Afterwards he was employed in a mill and for a while as a clerk in the village store. He worked out a subscription for the building of an academy at Troy by carrying a hod for the plasterers, and he prepared himself for college while he was an assistant teacher there.

He entered Wabash College at Crawfordsville, Indiana, in 1855, and was graduated from that institution upon the completion of the customary academic course in 1859. After his graduation he was employed for a year as an instructor in Wabash College, and was subsequently employed as a teacher in a school at Marion, Indiana. While at Marion the Civil War broke out and he offered himself as a soldier in the Union army, but his offer was rejected on account of a physical disability.

He began the study of the law immediately upon his graduation from Wabash College, and on March 16, 1862, he opened an office at Goshen, Indiana, and began practice. In 1866 he was elected to the Indiana Legislature and served with distinction as a member of the judiciary committee, a number of the bills which were proposed by him being enacted into laws. In 1873 he was elected judge for the thirty-fourth judicial cir-

cuit of the state and was again elected in 1878 without opposition. His record as a circuit judge gave him such prominence that in 1880 he was nominated by the Republican party as its candidate for a place upon the supreme bench. He was elected Judge of the Supreme Court and entered upon the discharge of his duties in January, 1881, and served until May, 1883, when he was appointed by President Arthur United States District Judge for the District of Indiana to succeed Judge Gresham, who had become Postmaster-General. He served as a district judge until he was appointed by President Harrison one of the United States Circuit Judges for the Seventh Circuit, and subsequently became, and was at the time of his death, on June 29, 1901, the presiding judge of the United States Circuit Court of Appeals for that circuit.

He was married on December 6, 1870, to Mata Newton, and she and their two children, Floyd A. and Alice N. Woods, survive him.

In any retrospect of a man's professional life the circumstances under which it was begun and pursued are always worthy of consideration. It is really impossible to separate any part of his life from the rest of it. All of the parts of it are closely interwoven with one another and bear upon its final outcome. The life which has just closed was begun amidst privation and hardship. At an early stage of it the boy learned to work for a living for himself and others. The love of knowledge was born with him, and he worked for an education. He fully appreciated the opportunities that he gained in this way and he made the most of them. There was always through life a sense of justice in him which made it impossible for him to embrace those opportunities at the price of another man's involuntary and unpaid labor. It was that love of knowledge that made him an accomplished lawyer, and it was that sense of justice that made him an upright and honored judge.

He applied himself with great zeal and a resolute will to an equipment of his mind with scholastic and professional knowl-

edge. Whatever he learned, he learned thoroughly. The amount and range of his knowledge were extensive. In the acquisition of it his intellectual faculties were developed and disciplined, and the acquisition of it never ceased. All of his utterances bear the mark of a trained mind. It was a logical and discriminating mind with a turn for nice and close distinctions which sometimes approached the verge of subtlety. His mind was vigorous as well as acute, and his reasoning always exhibited a strong and firm grasp upon the subject under his consideration. If his premises were admitted, it was difficult to resist his conclusions. It was also a quick and eager mind that anticipated and outran the argument of others and mercilessly exposed its weakness or absurdity. He loved intellectual fence and thoroughly enjoyed the heat of controversy as long as controversial strife was kept within the bounds of decency and decorum. He was ordinarily a patient listener during the progress of arguments before him and tolerant of any superfluous admonition from the bar. If the division of great judges by an English writer into judges for the legal profession and judges for the parties be accepted as an accurate classification of them, he would not be assigned a place among those judges who are simply content with the correct adjustment of a particular dispute and an assignment of their reasons and authority for it; but he would be given a high place among those judges who find in the dispute an opportunity for the most ample and lucid exposition of those principles which are applicable to it, and thereby endeavor to fix and establish the law of the land upon a secure and durable foundation. Judge Woods rendered the bar an undeniable service in that way. His published opinions are models of orderly and rational exegesis. They are expressed in plain and intelligible language, and leave no room for doubt as to what is meant or was decided by them. All evince careful thought and laborious research.

Both as a *nisi prius* and appellate judge, under both the state and federal systems of jurisprudence, it became his duty

to pass upon many cases of intricacy and importance. Some of them presented questions for decision which bore directly upon the very foundations of our social and political order. It was absolutely inevitable that the decision of those questions should provoke hostile criticism. Nevertheless he did not shrink from the full performance of his judicial duty or the full responsibility for his performance of it. With the approval of his own conscience and judgment, he calmly and confidently waited for an expression of the court of last resort upon his judicial acts, and when it came he was not disappointed. And with the same calmness and confidence his friends may wait for the final adjudication of posterity upon his whole life as a judge and as a man.

## MARYLAND.

### WILLIAM A. FISHER.

William Alexander Fisher was born in Baltimore, Maryland, on January 8, 1837. He was a son of William Fisher, for many years a prominent banker and broker of Baltimore, and of Jane Alricks Boggs. His school education was obtained at a private school kept by a Scotchman and at St. Mary's and Loyola Colleges in Baltimore, and his college education at Princeton College, New Jersey, from which he graduated well in the class of 1855 at the age of eighteen, and received the degree of B. A. and M. A. After his return to Baltimore he entered his father's banking house as a clerk and spent a year or more there, and much of the ease with which he disposed of questions of commercial law in the practice of his profession afterwards was, no doubt, due to the valuable experience he obtained there. His relationship to John Bannister Gibson, Chief Justice of the Supreme Court of Pennsylvania, who was his great uncle, perhaps brought him qualifications to practice law. He studied law and became a practicing member of the Baltimore bar at a very early age. His

legal studies were pursued in the office of William Schley, one of the ablest and most versatile lawyers of his time in Maryland. After his admission to the bar he formed a partnership with Douglas Hambleton, a very talented man, whose health, however, soon drove him to California, where he died.

In 1859 Judge Fisher married Louise Este, daughter of Judge David K. Este, of Cincinnati, Ohio, who was a conspicuous figure at the Ohio bar, and whose associations were with such men as Webster, John Randolph, Clay and Harrison. After the war he became associated with Col. Charles Marshall, who had been prominent during the war as an accomplished officer upon the staff of General Robert E. Lee, and the firm of Marshall & Fisher conducted a most varied and extensive practice for fifteen years. His connection with Colonel Marshall was only terminated by his election, by an overwhelming majority, to the Supreme Bench of Baltimore City in the bitter and exciting contest known as the New Judge Movement of 1882. He received the concurrent nomination of the Democratic, Republican and Reform parties for one of the four vacancies to be filled, and in that election he was the only nominee of the Democratic party elected. Prior to his election to the bench he was elected to the state Senate in the fall of 1879, and was at once prominent there; much of the most important and beneficial legislation of recent years was accomplished at the session of 1880 through his vigorous efforts. The universal respect and confidence with which he was regarded was reflected in his election to the bench two years later. He resigned from the bench in the year 1887 to resume the active practice of his profession with his son-in-law, William Cabell Bruce, and his son, D. K. Este Fisher (both of whom were young men just starting the practice of law), under the firm name of Fisher, Bruce & Fisher. His distinguished abilities and high character, well known during the active practice of his profession and rendered more conspicuous during his service upon the bench, at once drew to his firm an extensive practice in all branches of law, and he



continued with great success and distinction the practice of his profession as a member of that firm to within a few weeks of his death.

While absorbed continuously in active practice, he was interested in and connected with many charitable and other outside interests. He was always a Democrat and took an active and leading part in many of the most exciting and important political campaigns of his time, always supporting reforms and sound money. He was a Trustee of the Maryland School for the Blind, President of the Thomas Wilson Sanitarium for Children of Baltimore City, a Trustee of the Thomas Wilson Fuel Savings Society and President for many years of the Charity Organization Society, all well-known charities of Baltimore, and President of the Country School for Boys near Baltimore.

An unusual combination of qualities, as well as his legal learning, marked him for distinction at the bar. His disposition was so happy and cheerful, and his tact so ready and unfailing, that he always kept a jury and the opposing counsel and court in good humor, while his frankness and honesty and strong common sense and fairness never failed to gain the confidence both of courts and juries and all with whom he came in contact. His style of speaking was easy, natural and forcible, and his arguments were logical and characterized by fairness and clearness, and were illumined by illustration and sparks of humor which made them agreeable to listen to and easy to follow. He was a rapid and accurate worker, and the correctness and promptness with which his mind followed out legal consequences seemed like instinct. He seemed to possess a remarkable faculty for setting things right, and this, in a great measure, accounted for the confidence with which his counsel was sought after in every kind of controversy; upon the bench he often appeared to possess the unusual faculty of being able to satisfy both litigants.

His prominence at the bar made his death the occasion of memorial services among the most impressive ever held by the

bench and bar of Maryland, at one of which it was asserted by one of the leaders of the Baltimore bar that when at his best Judge Fisher was without an equal at the Maryland bar of his time.

He died on the 26th of September, 1901. He left surviving him his wife and four children.

### JOHN THOMSON MASON, R.

John Thomson Mason, R., a member since 1880 of this Association and a prominent lawyer of Baltimore City, died on June 21, 1901. Mr. Mason was the son of Major Isaac S. Rowland, an officer of the United States Volunteers during the war with Mexico, and was born in Detroit, Michigan, March 9, 1844. His mother was the daughter of John Thomson Mason of Loudon County, Virginia, and the sister of Stevens Thomson Mason, the first Governor of Michigan. Mr. Mason's mother returned to Virginia after the death of her husband, and, at the request of her father, the boy's name was changed by an act of the Virginia legislature to John Thomson Mason, while his father's name of Rowland was indicated by the capital letter R. following the name. At the outbreak of the civil war, young Mason, at the age of sixteen, became a member of the Seventeenth Virginia Regiment, and afterwards a midshipman on the Confederate States steamship "Shenandoah," where he saw varied service during the long cruises of that vessel as a commerce destroyer. The "Shenandoah" was in the North Pacific Ocean when the war ended and was navigated by its officers to Liverpool months after General Lee's surrender.

Upon returning to America, Mr. Mason studied law at the University of Virginia, and came to Baltimore in 1871, where he was admitted to the bar and continued to reside and practice until his death. Mr. Mason was a lawyer of decided ability, well grounded in the principles of his profession and skillful in their application to practical affairs. He was a safe counselor as well as an efficient trial lawyer, and soon acquired

and retained a valuable clientage. Throughout his career his personal integrity and professional honor were conspicuously such as are demanded by the highest standards. He was a man unusually attractive in his personality, an interesting talker, unfailing in courtesy and possessing great charm of manner. He was one of the leading laymen in the Protestant Episcopal Church and a member of numerous social organizations.

Mr. Mason's death was caused by heart disease, from which he suffered for the last two years. He is survived by his widow, the daughter of Alonzo C. Jackson of the United States Navy, and by two sons and two daughters.

### SKIPWITH WILMER.

On the 12th of July 1901, Skipwith Wilmer, of Baltimore, died at Nahant, Massachusetts, in the fifty-ninth year of his age.

Born on February 22, 1843, in Northampton County, Virginia, of old Maryland stock, he was educated first at the College of St. James in Maryland, and then at the University of Pennsylvania, and at the age of eighteen he passed into the higher school of war. For four years he bore arms and hardships with the enthusiasm of youth and the fortitude of a true soldier. When the Confederate States became a glorious memory, he escaped to Europe bearing on his body the marks of honorable wounds. Upon his return to this country he studied law at the University of Louisiana, and in 1867 he came to Baltimore to practice his profession. He was then in his twenty-fifth year, but he had already had a wider and deeper experience of life than comes to most men of twice that age. Throughout his life he was always ready and quick to learn, and what he once learned he seldom forgot or failed to apply when opportunity offered. From the Wilmers of Kent County and the Skipwiths of Mecklenburg there flowed in his veins some of the best blood of Maryland and Virginia. His grandfather was a clergyman and his father a bishop of the Epis-

copal Church. By birth and education, therefore, he was in the truest sense a Christian gentleman.

Almost immediately upon his arrival in Baltimore he became, and for more than thirty years continued, a prominent figure in the social life of that city. For several years he was a governor of the Maryland Club. He was a charter member of the University Club and from its organization its vice-president. His cheerful temper and ready wit, a wide range of information, coupled with a willingness to take his turn as a listener, made him a delightful companion and charming in conversation, and his acquaintance was most extensive.

He was equally active and conspicuous in the work of the Protestant Episcopal Church. For years he regularly taught a class at Sunday-school and served on the vestry of a mission church, which he long represented in the Diocesan Convention. There he acquired an influence almost commanding. When the Churchman's Club was formed, he was one of its founders, and later became its president. For over thirty years he was a faithful member of Christ Church, Baltimore, and for the last eight years of his life one of its vestry and its delegate to the Diocesan Convention. For six successive terms, covering the last eighteen years, he was elected a lay deputy from Maryland to the Triennial General Convention of the Protestant Episcopal Church, and in that body he was recognized as a leader in counsel and in debate.

He was never desirous of public office, but always responded to the call of civic duty. Beginning in 1881, he served two terms in the First Branch of the City Council, and in 1884 he was a Presidential Elector. From 1892 to 1896 he was Judge-Advocate General of the state. In 1899, at the first election under the new city charter, he was chosen President of the Second Branch of the City Council, and held that office until failing health compelled his resignation. With decided views on all political questions, he was never a partisan. He was from its formation a member of the Baltimore Reform League,

and a member, and one of the Executive Committee, of the Civil Service Reform Association.

He was still more active in the business and commercial life of his city and state. There his practical wisdom and varied experience made his counsel invaluable, for he was preëminently a man of affairs. He was for years a director of the Merchants and Manufacturers' Association, its counsel, and Chairman of one of its most important committees. He was also a director of the Fountain Hotel Company, of the National Farmers & Planters' Bank, of the Mercantile Trust and Deposit Company, of the Philadelphia, Wilmington & Baltimore R. R., of the Georgia, Southern & Florida R. R., the Atlanta and Charlotte Air Line Railway, the Baltimore & Chesapeake Steamship Company, and the Southern Railway Company.

When it is remembered that he never regarded any position as a sinecure, that he faithfully and efficiently discharged every duty that he undertook, and that during all of this period he was busily and successfully engaged in the practice of law, with the care of large and important interests, the wonder is that he was able also to bestow so large a measure of time and attention upon objects purely benevolent. He was one of the trustees of Johns Hopkins Hospital and of the Greenmount Cemetery Company, both of which made constant demands upon his time. He was a governor of and counsel for Christ Church Orphan Asylum and other charitable institutions, and, as one of the trustees of the Mary Byrd Wyman Memorial, and secretary of the Board, he conducted a wide and constant correspondence with and for widows and orphans in Maryland and Virginia and throughout the South. It is characteristic of his life that when the vestry of Christ Church and so many financial and commercial bodies were publishing eulogistic resolutions of respect to his memory, there appeared, side by side with these in the newspapers, an appreciative letter from a colored clergyman and an equally grateful tribute from the Hospital for Deformed and Crippled Children, in which he

always took a deep and active interest. Truly, he might have claimed for himself the memorable words of Terence, "*Homo sum, nil humani a me alienum puto.*" Whatever interested anyone else was sure to find in him a ready sympathy. His unfailing courtesy was not simply refined polish, but came from genuine and cordial consideration of the rights and views of others. The secret of his consummate tact, of his wonderful ability to adjust and harmonize, lay in his judicial fairness and in his power to look at things "from the other side." It was largely this that made him almost without an equal in negotiation.

When an address was to be made, whether to the graduates of a woman's medical college, in acceptance of a gift to the city, in memory of the Confederate dead, or at a convention of bankers, his services were always in request; and his addresses, prepared without apparent effort, were not only graceful and thoughtful, but invariably suggestive and full of help. With all this, his profession was still his life work and his greatest interest and pleasure. He stood easily a lawyer of the first rank, not a mere "case lawyer," but a master of the great legal principles. He tried successfully many important cases, not only in this state, but in almost every state of the South, and his ability as an advocate was universally recognized. He was the first Secretary of the Bar Association of Baltimore City, and, after holding other offices in succession, finally became its President. He was a member of the American Bar Association and for years regularly attended its sessions and served on important committees. He was, too, almost from the beginning, a valued member of the Maryland State Bar Association. But his great forte was as an adviser. On a question of business his judgment was prompt and sagacious; on a question of law it was clear and discriminating; and on a question of ethics it was like an instinct—instantaneous and unerring. At the trial table, in the church and at the directors' board others may rise to take his place; but none can say to how many the loss of their friend and counsellor will be irreparable.

## MASSACHUSETTS.

## HORACE WILLIAMS FULLER.

Horace Williams Fuller, widely known as the editor of *The Green Bag*, died suddenly on October 26, 1901, stricken with apoplexy. He was born in 1844 at Augusta, Maine. His father was Benjamin Apthorp Gould Fuller, by profession a lawyer, who was for several years on the bench. His mother's maiden name was Harriet Selden Williams. After getting an education at the Augusta High School and Phillips Academy, Exeter, he came to Boston in 1861, and for several years devoted himself to business. Later the legal instincts of the family prevailed (the present Chief Justice of the United States was his cousin), and after reading law in the office of Henry W. Paine, and taking a course of study at the Boston University Law School, he was admitted to the Suffolk bar in 1876. He never appeared much in the courts; his business was mainly office practice and trusts. In 1879 he married Emily Carter, of Roxbury.

Although Mr. Fuller never took a university course, he was such a constant student throughout his life that he attained a culture so broad and thorough that many readers of this article will be surprised to learn that he did not hold a college degree. He had an especial fondness for French literature, writing in his leisure hours and contributing anonymously to magazines and the press spirited translations from that language. His only acknowledged work in this line was a small volume entitled "Noted French Trials, Impostors and Adventurers," published in 1882.

When *The Green Bag* was projected, its publishers, knowing Mr. Fuller's literary aptitudes, offered him the position of editor. This offer, fortunately for the undertaking, was accepted. He threw himself into his new duties with characteristic vigor, and for many years was not only editor but, to a great extent, also business manager. Although he relinquished

the latter part of his duties after the first few years, he kept up the literary portion with unflagging devotion. To the excellence of his work, the twelve volumes of *The Green Bag*, from 1889 to 1901 inclusive, will stand as a permanent monument. To sustain the tone of such a periodical, to open new veins of light legal literature when old ones were worked out; to enlist the aid of worthy contributors; to hold the interest of readers, month after month and year after year, was a task to weary most men; but he kept at it with so much zeal and ability that the later volumes seem as fresh and interesting as their predecessors.

His editorial work not only made him known to the legal profession, but its incidental correspondence brought him into direct touch with many leading lawyers throughout the United States. For several years he was an active member of the American Bar Association. At its annual meetings he had the opportunity of meeting the men who already knew him by reputation, or through exchange of letters, and who welcomed him cordially as a friend at first sight.

When Mr. Fuller gave up the editorial charge of this magazine a year ago, he appeared to be in such excellent health—he had settled into such a serene routine of domestic life, unruffled by business cares or financial anxieties, with a circle of congenial comrades to keep him bright, and a fondness for outdoor exercise to keep him invigorated—that his friends expected him to outlive them all.

Among Mr. Fuller's accomplishments was a talent for amateur theatricals. His specialty was character parts, in which he excelled—both in humorous characters and in those requiring pathos and delicate shades of acting. For many years he devoted much time and energy to the duties of manager of the Brookline Comedy Club, a position requiring peculiar tact and patience.



## MICHIGAN.

## JOHN WAYNE CHAMPLIN.

On the 24th day of July, 1901, by the death of John Wayne Champlin, the bar of Michigan lost an able and honorable member, one who was loved by all who knew him, one on whose escutcheon there never was a stain.

He was born of New England stock at Kingston, New York, February 17, 1831. His early life was spent on a farm, and his education was obtained at the academies at Harpersfield, Stamford and Rhinebeck. Later, at the Delaware Institute, he took a course in civil engineering, intending at the time to make that his profession. After following the practical work of engineering for a time, he decided to engage in the practice of law, and went to Grand Rapids, Michigan. In 1854 he entered the office of his brother, Stephen G. Champlin, as a student. He applied himself to study assiduously, and the next year was admitted to the bar on examination. Commencing at once to practice, he continued at the bar at Grand Rapids until his death, excepting the eight years during which he was on the bench.

He became one of the foremost lawyers in the state. He had an analytical mind, was always a student, and mastered the subject that he took up. His was not a brilliant mind. He reached conclusions somewhat slowly, but always carefully. He excelled both as a counsellor and a trial lawyer.

Judge Champlin was a man of the highest integrity, and had the keenest sense of professional honor. The result was that he always had the confidence of business men, and they placed in his hands the most important matters, and he came to enjoy a large practice, extending beyond the limits of his state.

In 1883, entirely without solicitation on his part, he received the Democratic nomination for Justice of the Supreme Court. The state at that time was so largely Republican that his candidacy seemed almost hopeless. But all recognized his fitness

for the position, and with the support of his many Republican friends, he was elected by a considerable majority. He went on the bench in January, 1884, while Cooley and Campbell were still members of the Supreme Court of Michigan, and it is not too much to say that Judge Champlin was worthy to sit with such jurists.

While on the bench, Judge Champlin continued his habits of industry, giving each case conscientious study and attention, and at a time when the dockets were crowded, he gave to the briefs and arguments of counsel careful consideration. Lawyers knew this and, therefore, Judge Champlin enjoyed to a remarkable degree the confidence of the bar. His opinion might be adverse, but it was deliberate and well considered. He remained on the bench until January, 1892, then resumed practice and remained at the bar until his death.

Personally, Judge Champlin was a delightful man. He was approachable and democratic, kindly and courteous in manner, and most genial and companionable. His kind words and hearty laugh linger in the minds of his friends—a bright and pleasing memory. He took an active interest in public affairs, and held the office of Mayor of Grand Rapids and other positions of trust.

To give an estimate of Judge Champlin in a word—he was a good lawyer, an able and upright judge, a public spirited citizen, an honest man.

#### WILLIAM L. WEBBER.

In the death of William L. Webber at Saginaw on the 15th of October, 1901, the bar of Michigan lost an honored member. He was born July 19, 1825, at Ogden, New York. In 1836 the family removed to Hartland, Michigan, and there upon a farm Mr. Webber spent his boyhood and formed habits of industry and economy which marked his subsequent life. For a time while pursuing his legal studies he taught school. In 1851 he was admitted to the bar, and in 1853 he settled at Saginaw, which from that time was his home.

The rapid growth of Saginaw and the development of its extensive and complicated business interests soon brought him lucrative business and professional prominence. Many important interests were placed in his hands. He was then a young man with limited experience in his profession, and only his untiring industry, physical endurance and great ability enabled him to meet the demands upon his strength.

His success at the bar, his commanding position as a lawyer, his official life for nearly fifty years, and his high professional character attest his genuine merit.

In his practice he was just with the court, at all times courteous to his brethren in the profession, and faithful to his clients. Great interests and business enterprises were committed to his charge. To all he gave his most careful, painstaking attention and good judgment; and in the management of all these affairs his integrity was beyond question.

In official life he was faithful and trustworthy. He was an honest man, a sound lawyer, an honor to his profession, a useful citizen, a faithful husband, loving father, and Christian gentleman.

In 1849 he married Nancy M. Withington, and fifty years of happy wedded life blessed their union. She died but a few months before Mr. Webber's death. He leaves two daughters, Mrs. James B. Peter and Miss Frances E. Webber.

## MINNESOTA.

### STANLEY R. KITCHEL.

Stanley R. Kitchel was born in Detroit, Michigan, July 4, 1855. He received his early education in the public schools of Detroit and Chicago, and prepared for college at Middlebury, Vermont. He entered Middlebury College in 1872, while his father, Dr. Harvey D. Kitchel, was President of that institution. Leaving Middlebury in 1874, he entered Williams College and was graduated in the class of 1876. After

a short period of law study in Warsaw, New York, he moved to Minneapolis, where he completed his studies and was admitted to the bar of Hennepin County in June, 1878. From that time until his death, on December 7, 1900, he was in active practice, except during the later years, when his increasing ill health compelled a lessening of his work.

Mr. Kitchel was, by nature and education, a counsellor rather than an advocate. He sought definite and systematic results and found stimulus and pleasure in orderly sequences. He was thus led away from the clash of the court-room to those branches of the law which demand accuracy rather than immediate readiness. In the early years of his practice he chose wisely the field for which he was best fitted—the law of land-titles and the work of the counsellor—and in that field his care and thoroughness earned him the highest reputation. His broad and sure judgment found a just solution for many of the intricate questions of title arising in a comparatively new community, and he became a recognized authority in Minnesota. He is to be classed with the land lawyers of the common law before conveyancing became a matter of printed forms.

The same qualities of exactness and patience characterized his professional work as an adviser. To this work he brought not only the essential equipment of high character and unflinching rectitude, but also great executive ability and a clear and well-trained mind. His temperament was judicial and his methods deliberate and accurate. He was a man of affairs rather than a man of books; his counsel, based on ample reading, illumined the letter of the law with the light of practical knowledge. He belonged distinctly to that high class of lawyers who see both sides and seek for their clients only what justice permits.

Although Mr. Kitchel added nothing of his own writing to the burdened shelves of the law, he did not leave undone his duty to his profession. He was particularly interested in gathering a law library for the local bar. To this object he devoted himself generously for many years and was not de-

tered by the misfortunes of fires which, on two occasions, partly destroyed his work. After each casualty the library was again restored, mainly through his efforts. It stands today a monument to his patience and enthusiasm.

In politics Mr. Kitchel was a Republican. He took a keen interest in public affairs, but declined all public offices until 1898, when he was elected a member of the Minneapolis Library Board. His failing health, however, prevented him from undertaking the duties of the office. He was President of the Minneapolis Bar Association from 1894-1897, President of the Minneapolis Club from 1895-1897 and a member of several Masonic bodies. He was married December 2, 1879, to Anna C. Gerhard, of Delaware, Ohio, who, with a son, survives him.

## MONTANA.

### FRANK E. CORBETT.

Frank E. Corbett was born in Norfolk, Virginia, January 11, 1864. He died at Butte, Montana, March 14, 1901. His boyhood was spent in Texas, but he was three years at the University of Virginia, where he took his B. L. degree in 1886 and also was awarded the annual medal for the ablest article contributed to the University Magazine.

Coming to Montana in 1887 he began the practice of law.

In 1888 he was elected City Attorney of Butte, then a growing town of twenty thousand people. In 1890 he retired from office and entered general practice. He was identified with one side or the other of all the important mining litigation which has for ten years made Montana courts noted.

When he felt that he was right and that his client's cause was just, there were few advocates that could surpass him. No lucrative employment, however pressing, ever kept him from assisting the helpless with his legal abilities. They could have his services without stint and without price.

To serve the Democratic party in Montana in the fall of 1900 he became a candidate for the lower house of the Legislature, leading the successful party by 500 votes. At the convening of the Legislature he was chosen Speaker of the house. During a most stormy session of a most stormy Legislature, party or no party, his hand was firm for the right; his zeal was for the State's welfare before party, and for the benefit of others before his own. After sixty nights and days of factional turmoil and sickness engendered in a sensitive heart he returned to Butte to rest. The excitement gone, there came irreparable exhaustion and, pneumonia setting in, he died in a few days. He leaves a widow and an infant son.

## NEW JERSEY.

### THOMAS N. McCARTER.

Thomas N. McCarter was born on the 31st day of January, 1824, in Morristown, New Jersey, being the second child of Robert H. and Eliza N. McCarter. His father, Robert Harris McCarter, was a Judge of the Court of Errors and Appeals of the State of New Jersey. Thomas N. McCarter was graduated at Princeton in 1842, and immediately commenced the study of law in the office of the Honorable Martin Ryerson, in Newton, New Jersey. In 1862 he was a member of the New Jersey Assembly; in 1863 he was appointed reporter of the Court of Chancery by Chancellor Green, and published two volumes of its reports. In 1865 he removed to Newark, New Jersey, where he practiced law continuously until his death, on January 11, 1901. From 1868 to 1882 he was associated in partnership with Oscar Keen, a lawyer of Newark, under the firm name of McCarter & Keen. In 1882 the firm of McCarter, Williamson & McCarter, consisting of Thomas N. McCarter, Edwin B. Williamson, his son-in-law, and Robert H. McCarter, his son, was formed. From 1891 until 1899 another son, Thomas N. McCarter, Jr., was a

member of the firm. He was twice tendered the position of Justice of the Supreme Court of New Jersey, but declined the appointment on each occasion. He was counsel and director in many large corporations, was for many years one of the leaders of the bar of his state, and was much respected as a citizen. He was married on the 4th day of December, 1849, to Mary Louise Haggerty. Mrs. McCarter died June 28, 1896, leaving six children, three sons and three daughters.

## NEW YORK.

### CHARLES C. BEAMAN.

Charles Cotesworth Beaman, who died in the prime of life on December 15, 1900, at his home in New York City, had attained an enviable position at the American bar through great native talent and unremitting professional labor. From youth to manhood he gave evidence of his power of mastering every problem set before him, of seizing his opportunities and of crowning his efforts with success.

He was the son of a country clergyman whose worldly fortune was limited to his profession and surroundings, and was born at Houlton, Maine, in 1840. In acquiring his education he was mainly dependent upon his own efforts. He fitted for college at Smithville Seminary, North Scituate, Rhode Island, and graduated from Harvard in 1861, a leading man in college affairs and with a scholar's reputation in a class that was noted for scholarship and character. He remained always a devoted friend of the university and was a member of its Board of Overseers at the time of his death. After an interval of teaching school to furnish the means for fitting himself for his chosen profession, he entered the Harvard Law School and was awarded the first prize for his essay on "The Rights and Duties of Belligerent War Vessels." The essay displayed such a power of logic and judgment, and such an admirable knowledge of international law that when published

in the *North American Review* it attracted the attention of Senator Sumner who was about to present, in an important speech in the Senate, the claims of the country against England for the ravages of the Alabama. He immediately appointed Beaman his secretary and clerk of the Committee on Foreign Relations, where he served until 1868, having in the meantime been admitted to the Suffolk bar in Boston.

In 1868 he settled in New York, being a member at different times of the several firms of Jackson & Beaman, Beaman & Marden, and Diefendorf, Beaman & Marden. In 1871 he published a book entitled "The Alabama Claims and Their Settlements," which attracted general notice, and he was at this time appointed examiner of claims in the Department of State. This office he filled with signal ability, and it thoroughly qualified him for the important and responsible position of solicitor for the United States before the Tribunal of Arbitration at Geneva to which he was appointed by President Grant, the selection being due to his intimate knowledge of the subject and to the influence of the able lawyers connected with the Commission, who recognized his ability. At Paris he was more familiar with the claims than anyone else and was in constant consultation with Messrs. Cushing, Evarts & Waite, counsel for the United States, who conferred with him as to the amount of the claims and their character. His contribution of knowledge and service was largely influential in securing the successful issue of the arbitration.

At this time he met the daughter of Mr. Evarts, whom he subsequently married. After the conclusion of the arbitration and the payment of the award by Great Britain, he was retained by the claimants in a large number of important cases before the court of the Commissioners of Alabama Claims, and in these he was preëminently successful. So it happened that his choice of a subject for a prize thesis was the starting point in his career, and he availed himself so well of his opportunity that it brought him position, his wife and fortune.



In the next period of his career he practiced his profession in the city of New York for several years in partnership with Edward N. Dickerson, one of the leading patent lawyers of the country, and from 1879 was a member of the distinguished firm composed of such leaders of the bar as William M. Evarts, Charles F. Southmayd and Joseph H. Choate. By the retirement of its senior members he was at the time of his death practically at its head. His versatility was shown by the ease with which he familiarized himself with branches of the law in which he had hitherto had no experience. He made himself master of the highly specialized branch of the law of patents at the same time that he was engaged in the strenuous discussion of the principles of international and admiralty law, in both of which branches he achieved signal distinction and success. In the firm of which he later became a member, his activity was directed into other branches of the law and he became the trusted adviser of those who represented the great financial interests of the country, of bankers, managers of railway and steamship lines, great corporations and leading capitalists whose financial operations were world-wide. He conducted reorganizations of corporations where the situation was so intricate, and conflicting interests apparently so irreconcilable, that a solution seemed impossible, but his sagacity, fairness, genial temper and conciliatory spirit inspired such confidence on all sides that success invariably crowned his work.

With all this engrossing professional work depending upon him, he was always a leader for the public good—social, philanthropic or political, unsparing in his efforts and regardless of himself. He was chairman of the Conference Committee of Seventy in the reform movement of 1894, the candidate of the Republican and Independent Democratic parties in the city for the office of Supreme Court judge in the election of 1895, and prominent in the municipal campaign of 1897; and during the last few months of his life he was earnest and devoted in his work as a member of the commission for the revision of the charter of New York City, which taxed his energies severely and sapped his strength.

With all his record of achievement, he will be best remembered by his friends for his personal qualities and character. His presence was as invigorating as the northwest wind, and was sought for more eagerly than that of anyone else who can be named.

"His magic was not far to seek,  
He was so human! \* \* \*  
No beggar ever felt him condescend,  
No prince presume; for still himself he bare  
At manhood's simple level, and where'er  
He met a stranger, there he left a friend."

He was the cheeriest and breeziest of mortals, buoyant and fascinating in his wit; bubbling over with an irrepressible humor which broke out in the most unexpected way upon all occasions; inspiring in his never-failing enthusiasm, creating an atmosphere of gayety, geniality and contagious sympathy; one of the most brilliant men at a dinner table in raillery, repartee, and the cut and thrust play of clever table talk that New York has known.

The apprehension always suggested to their friends by men of his gentle, frolicsome, fervid disposition with the fountains of emotion ever near the surface, is that there may be a want of heroic fibre and moral tenacity, but this doubt was entirely dissipated when one saw him in his hours of work with the pressure of responsibility upon him. Then it became clear that it was strength, not weakness, which bred the gentleness of his character, and that he was

"A mortal built upon the antique plan,  
Brimful of lusty blood as ever ran,  
And taking life as simply as a tree."

His reserve power was shown in the concealment for two years from those nearest and dearest to him of the knowledge of his mortal disease, and during this time his bearing was apparently as joyous and free from care as if he were unaware of the shadow of death which brooded over him. He was a grateful, affectionate and careful son, a loving husband, a

devoted, thoughtful father, and a kind and helpful neighbor in the large meaning of the word.

It is impossible to think of him as dead, he was so full of life. He died as he had lived, like a Christian gentleman, with a loving message to his friends and in the hope of triumphant immortality. Although the summons came to him at the height of his power, his life was completely rounded out and no man ever left a sweeter memory.

“There is no record left on earth,  
Save in tablets of the heart,  
Of the rich inherent worth,  
Of the grace that on him shone,  
Of eloquent lips, of joyful wit;  
He could not frame a word unfit,  
An act unworthy to be done.”

### EDWARD FITCH BULLARD.

Edward Fitch Bullard was born at Schuylerville, Saratoga County, New York, February 7, 1821. His father, Alpheus Bullard, was a native of Sturbridge, Massachusetts, and the first of the family in America was Benjamin Bullard, who settled at Watertown, Massachusetts, in 1630.

His mother, Hannah Fitch, was a native of Saratoga County; her father, Ebenezer Fitch, came to that county from Connecticut, and was a grandson of Thomas Fitch, colonial governor of Connecticut.

He passed his boyhood on his father's farm, and gained such education in books as the rude common school and the nearby academy afforded. He entered the law office of Chelselden Ellis at Waterford, New York, in September, 1838, and from that time until his death was an earnest student in his profession. He was admitted to practice in 1841 when but twenty years of age, and became the partner of Mr. Ellis in November, 1842, upon the latter's election to Congress.

In August, 1845, Mr. Bullard was commissioned Brigadier General of the New York State Militia to which fact is due the

title of "General," by which he was ever afterward known. In 1850 he was admitted to the bar of the Supreme Court of the United States on the motion of Daniel Webster.

From 1841 he took an active part in the stormy politics of ante-bellum times, often going as delegate to the state conventions of the Democratic party.

In 1854 he changed his views on slavery and actively engaged in efforts to found a party opposed to its extension; and on July 31st of that year he made a vigorous anti-slavery speech in St. Louis, which was extensively reported in the papers and led to disclaimers from Thurlow Weed and Senator Seward representing the Whig party, because he advocated leaving both the old parties and founding a new one on a free soil basis. From that time on he kept up that agitation until the Republican party was founded. While so engaged, he attended the conventions of the free soil men and always urged radical action. Upon the election of Lincoln he advocated the holding of the southern forts; and when war began he urged its vigorous prosecution, and throughout those times advocated the settlement of the questions at issue by thorough and radical action. His correspondence with political leaders was extensive at this period, and he supported the Union by voice and pen in the most vigorous manner. At the outbreak of hostilities he was tendered a commission as Brigadier-General of Volunteers, but declined it, believing that his services in behalf of the Union would be more valuable at home than in the field. In after years he ceased to take any active part in politics, although always maintaining his interest therein.

As a lawyer, Mr. Bullard was remarkable for painstaking industry, attention to details of fact and skill in discriminating and applying legal principles to the facts of the case, and unflagging zeal and courage. His memory for facts, figures and dates was unexcelled. He did not possess great oratorical power, but his earnestness of speech and cogency of reasoning achieved success before juries. As a trial lawyer he

built up a large practice. His aggressive courage led him to take up many a forlorn hope, and his dogged persistency prevented his quitting the fight until the court of last resort had pronounced against him. These traits are evidenced by the reports of New York; in the Court of Appeals more than one hundred and twenty-five of his cases are reported. Many of them involved novel points and are recognized as leading cases, among which are *Hay vs. Cohoes Co.*, 2 N. Y.; *Losee vs. Buchanan*, 51 N. Y.; *Campbell vs. Consalus*, 25 N. Y.; *Harvey vs. McDonnell*, 113 N. Y.; *Board of Supervisors vs. Powell*, 77 N. Y.

His devotion to his practice left little time for literary effort. *Tiffany & Bullard on the Law of Trusts*, and *Riddle & Bullard on Supplementary Proceedings* are in part the product of his labors.

His interest in local history led to his making the Centennial Address in 1876 in his native town of Saratoga, commemorating the battles of Saratoga and the surrender of Burgoyne. Later he became one of the Trustees of the Saratoga Monument Association, under whose control a monument was erected in the town of Saratoga by the government to commemorate the surrender.

His large acquaintance with the lawyers and statesmen of two generations, aided by his retentive memory, stored his mind with a fund of reminiscence and anecdote which, on occasion, would afford both instruction and amusement to his auditors.

His name was twice presented to Republican State conventions for nomination to the Court of Appeals, his brethren of the bar in northeastern New York considering him eminently qualified for the work of that bench.

He was one of the original members of the American Bar Association, and rarely failed to attend its meetings and annual dinners.

He died December 16, 1900, lacking a few weeks of eighty years of age, after sixty-two years of active practice at the bar.

General Bullard left to survive him his widow and daughter and four sons, two of whom, Emanuel G. and Waldo E., are practicing lawyers in New York City.

#### WILLIAM M. EVARTS.

William Maxwell Evarts was born at Boston on February 6, 1818, and died in New York on February 28, 1901, at the age of eighty-three. He was a son of Jeremiah Evarts, the great Corresponding Secretary for the American Board of Commissioners on Foreign Missions, and the author of the celebrated "William Penn Letters."

Mr. Evarts' paternal grandfather was James Evarts, of East Guilford (now Madison), Connecticut, whose ancestor became a freeman of that town in 1652. James Evarts removed to Sunderland, Vermont, where Jeremiah was born.

Roger Sherman, of Connecticut, the maternal grandfather of Mr. Evarts, has the unique distinction of being the only person whose name appears upon the three chief foundation instruments of our government.

Mr. Evarts graduated at Yale College in the class of 1837; many of his classmates became prominent in after-life and some highly distinguished. He was one of the four founders of the famous Yale *Literary Magazine*, and to it he was a frequent contributor. After graduating he taught school and studied law in Windsor, Vermont, and there met, and, August 30, 1843, married, Helen Minerva Wardner, a daughter of Allen Wardner, a banker of that place. Subsequently he was a student in the Harvard law school and there attracted the attention of its eminent professors by his exceptional promise. After graduation he became a student in the office of Daniel Lord, of New York City, where he commenced practice.

Mr. Evarts attracted public attention as a lawyer, very early in his career, by his participation in the defense of Munroe Edwards, a noted forger, in 1842. John J. Crittenden, Thomas F. Marshall and Robert Emmet, who were leading for the defense, entrusted him with the duty of opening the case

to the jury. Edwards was convicted; but, at the close of the trial, Mr. Crittenden complimented Mr. Evarts upon the part he had taken, telling him that he would become eminent as a criminal lawyer.

He subsequently became associated with J. Prescott Hall and Charles E. Butler, and, later, Charles F. Southmayd,—of great professional eminence,—became connected with the firm, which became prominent under the name of Butler, Evarts & Southmayd. As years went on it came to be known as Evarts, Choate & Beaman.

In 1857 Mr. Evarts argued the important case of *The People v. Draper*, 15 N. Y. 532, involving the question of the power of the legislature to create, for police purposes, a new civil division in the state. In 1852 he argued the famous *Lemmon Slave Case*. He represented the Government in the *Savannah Pirate Case*, as it was called, and also, with eminent associates, in the very important *Prize Cases*.

In 1863 he went abroad as a *quasi* representative of the Government and resided there for a long time, participating as adviser in the foreign enlistment cases conducted by the late Lord Selborne—whom he afterwards met as an opponent at the Geneva Tribunal.

Among cases of national moment it fell to Mr. Evarts' lot to be successful in three of the most important cases ever tried: The Johnson impeachment case in 1868, the Geneva Award in 1872 and the Electoral Commission in 1877.

After the close of the last of these cases Mr. Evarts became Secretary of State and remained in the Administration until the end of President Hayes' term.

Immediately thereafter he was one of the representatives of our government at the Monetary Commission in Paris, where he held the view that concurring governments could maintain both silver and gold in circulation at a parity, and this view he substantially repeated in the Senate.

Upon his return to the City of New York he resumed practice. He argued the question of the right of the owners of

abutting property to recover damages against the Elevated Railroad, and was sustained in his contention by the Court of Appeals (90 N. Y. 150).

In another important case of a public character, in which he attacked the validity of the Tenement House Cigar Law, he was sustained by a unanimous court (98 N. Y. 98).

In 1861 Mr. Evarts was a candidate for the Senate before the legislature of New York but failed of election. In 1884 he was elected and occupied a seat for six years. No one expected more of Mr. Evarts here than did his closest friends, and they were in no measure disappointed. It is believed that he possessed more than ordinary influence with his brother senators; that his votes upon important measures were alike in accord with his convictions and with the views of his own party; that his service on committees was laborious, ample and complete, and his speeches are unsurpassed by any other man who has been in either House for a corresponding term.

Our profession owes him a substantial debt in that at the very close of his senatorial career he prepared and aided largely in carrying through Congress the bill to relieve the Supreme Court by creating the Circuit Court of Appeals. This work was impeded by failing eyesight.

Mr. Evarts' last appearance in court was in the spring of 1889 in the case of *Post v. Weil*, 115 N. Y. 361. With his own hand he wrote the brief of eighty-two pages, though his eyesight was then very much impaired and he knew very well that oculists would forbid the use of his eyes if he consulted them before the work was completed. The case was one of great gravity, not only as to the property, but as to the question involved, and the court accorded it two days. The decision was in favor of the contention of Mr. Evarts.

The very numerous and important private litigations in which Mr. Evarts was concerned, and which he always conducted with great ability, cannot be noticed in detail. The reports are full of them.



During his professional career Mr. Evarts was frequently called upon for written opinions upon important questions of law. The last service of this sort which he performed was the preparation of an opinion at the invitation of the High Court of Chancery touching the administration of the estate of one of its wards. The question involved the construction of a will creating various vested and contingent remainders and affected a large property in the United States. Several conflicting opinions had already been obtained from American lawyers, and this disagreement led the court to resort to Mr. Evarts. He prepared an exhaustive opinion, which the court accepted and followed in disposing of the matters in hand. Practically this was his last important and professional work.

Space permits only an allusion to the numerous occasions in which Mr. Evarts appeared before the people upon the platform either as a political speaker or as an orator, though it ought not to be forgotten that it was his fortune to deliver the two orations which opened and closed the series of meetings which marked the Centennial of the government. His memorable discourse upon Chief Justice Chase, at Dartmouth College, lives as a just, complete and eloquent appreciation of that eminent public character. Nor should his brilliancy as an after-dinner speaker be overlooked or forgotten.

No medical skill could prevent the progress of the disease which affected Mr. Evarts' sight. It advanced steadily upon him, though he still continued his professional work. He retained all his old cheerfulness and conversational power and delighted in the discussion of public affairs and in reminiscences of great legal controversies and in the discussion also of men. There never was any bitterness in his treatment of them.

On April 9, 1897, he suffered from a severe attack of the grippe, and he never recovered his strength, so that practically thereafter he ceased to visit his office, but he always welcomed his old friends at his home and was as cheerful as formerly.

Mr. Evarts appeared to be exceedingly frail, for he was very slight. Yet without great strength and great power of endur-

ance he could never have performed the immense amount of work which fell to his lot. As an illustration of this strength and power, it is said that he was never once absent from his place during those six months of the Beecher-Tilton trial, and that at the end of his eight days summing up he was as fresh as ever.

His conduct in the trial of a case was most admirable. He was always serene, good natured and dignified, and was unsurpassed in the examination and cross-examination of witnesses as well as in the argument of interlocutory questions, while in the strategy and tactics of a litigation he was a master.

Taking it altogether, the estimate of Mr. Evarts by Lord Selborne in his "Memoirs" is satisfactory. He treats of the various persons representing the United States at Geneva in a somewhat critical vein, then saying:

"Mr. Evarts was a man of quite a different stamp—keen, but high-minded; . . . in person, spare; in countenance, refined; in conversation, sincere and candid, with a good deal of dry humor; he stood very high in the estimation of us all, and not least in my own. I could have trusted him implicitly in anything in which I had to deal with him alone. He was a good lawyer and a skillful advocate and had also the qualities of a statesman; his manners were simple and in his domestic relations he was very happy. Altogether, he was a man of whom any country might be proud."

#### CHARLES AUGUSTUS PEABODY.

Charles Augustus Peabody was born in Sandwich, New Hampshire, on the 10th of July, 1814; he died on the 3d of July, 1901.

He was the son of Samuel Peabody and Abigail Wood; on his father's side he was descended from Welsh ancestry; his mother's family was supposed to have descended from a branch of the family of Sir Matthew Hale.

Samuel Peabody was a lawyer of fine talents; he graduated from Dartmouth College in 1808; he was a college mate of

Daniel and Ezekiel Webster; an intimacy between him and Ezekiel Webster began in college and continued throughout their lives. After retiring from business he settled in Andover, Massachusetts, where he died on October 17, 1859.

Charles A. Peabody was the oldest of ten children, of whom two survive him. He was educated partly by private tuition at his father's house, partly in Massachusetts and partly in the classical schools in the Northern part of New Hampshire. He fitted for college in the hope of entering Dartmouth. Failure of his health at the critical time, however, defeated his purpose, and had almost unlimited control over his movements and destiny for a much longer time than the usual term of a college course. In the years 1832 and 1833 he lived most of the time in Beverly, Massachusetts, where he both taught and studied, as his health and circumstances permitted. In 1834 he went to Baltimore, attracted by advantages of climate and the greater facilities afforded there for his temporary occupation of teaching, by which to support himself and to render needed pecuniary aid in the education of younger members of the family. He remained in Maryland more than two years, after which he returned to Massachusetts and entered the law school of Harvard University. He remained there until 1839 when he went to New York, where he resided for more than sixty years and until his death. In New York he entered a law office as student, being introduced by Rufus Choate.

In 1855 Mr. Peabody was a member of the convention which organized the Republican party of the state of New York. In the same year he was appointed by the Governor of the state a judge of the Supreme Court. In 1856 he was again appointed a judge of the Supreme Court. While serving in this capacity, and shortly before the expiration of his term, he was offered, by the Governor, the appointment of city judge; this would have made him judge of the principal criminal court of the city, having jurisdiction of cases of the highest class. This appointment he did not accept. In 1858 he was

appointed by the Governor, Commissioner of Quarantine, to succeed Horatio Seymour. The appointment was one of importance at the time.

In 1862 he was appointed, by the President of the United States, judge of the United States Provisional Court for the state of Louisiana. This court was called into existence by the necessities of the federal government in respect to its foreign relations after the conquest of New Orleans and other parts of Louisiana by the army of the United States during the war of the Rebellion, and while that territory was held in military occupation. Mr. Seward, as he and Chief Justice Chase were dining with Judge Peabody, speaking of the Supreme Court of the United States, said, for the ear of the Chief Justice: "Your court has some power in time of peace, no doubt, but none in time of war. It is limited to a small class of cases, and in those usually to appellate jurisdiction, and in all cases it is bound by law prescribed for its guidance; in none of which respects was Peabody's court under any limitation;" and (turning to Judge Peabody) he added, "Why, Peabody, all the power of his court is not a circumstance to what you had in Louisiana."

In 1862, to meet an emergency, he was appointed judge of a criminal court in New Orleans.

In 1863, while holding the United States Provisional Court, he was appointed Chief Justice of the Supreme Court of Louisiana.

In 1865, he was appointed by the President of the United States, and confirmed by the Senate, as attorney for the United States for the Eastern District of Louisiana, but he declined to accept the office.

In 1875 he was nominated by the Republican party for Surrogate of the county of New York, on which occasion he was not elected, but he ran many thousands of votes ahead of his ticket, and lacked less than thirteen thousand of an election.

He travelled extensively in Europe, going abroad frequently in the summer vacations.

Judge Peabody married three times. His first wife was Julia Caroline Livingston, daughter of James Duane Livingston, the mother of his children, of whom four survive him. His second marriage was to Maria E. Hamilton. In 1889 he married Athenia Livingston Bowen, who survives him.

Judge Peabody's judicial life has been sufficiently varied and uncommon to attract remark. He has been twice judge of the Supreme Court of the state of New York, by appointment of the governor, and was offered a place on the bench of another court, which he did not accept; he has been appointed judge of three different courts by the federal government of the United States; he has been three times the nominee and candidate of his party for other judicial places—twice for the bench of the Supreme Court of the state of New York, and once for Surrogate of the city and county of New York.

### WILLIAM H. ROBERTSON.

William H. Robertson was born in Bedford, Westchester County, New York, October 10, 1823. He was the oldest child of Henry Robertson and Huldah Fanton. His ancestors were of Scotch origin and among the early settlers of Fairfield County, Connecticut. John Robertson is mentioned in the records of Greenwich in 1667. William Robertson, the great-grandfather of the subject of this sketch, removed from the town of Bedford in 1744, buying a farm, which was, until recently, in the possession of the family. Henry Robertson, the father of Judge Robertson, was for fifteen years supervisor of the town of Bedford and was a man of strong good sense and great elements of popularity. He died, at the age of ninety, at the place where he was born and in the house in which he had lived for over three quarters of a century.

On his farm the future judge spent his boyhood. He was educated at the district schools and at Union Academy in Bed-

ford. He taught school for a few years, but, deciding upon the profession of the law, he entered the office of Robert S. Hart in Bedford village.

Before attaining his majority he became interested in politics and was present at the convention which nominated Henry Clay for President, in May, 1844. He met Mr. Clay, at that time, at a reception and became an ardent admirer of that statesman.

Judge Robertson was admitted to the bar in 1847. In 1854 he formed a partnership with Odle Close for the practice of law in White Plains, under the firm name of Close & Robertson, a connection which continued until the death of Mr. Close in 1894.

Judge Robertson's career has been conspicuously identified with local, state and national history, both legislative and political. Although he cast his first vote for Henry Clay in the fall of 1844, as early as 1840 he had developed a taste for politics and took a warm interest in the Harrison campaign of that year. In 1845 he was elected town superintendent of schools, holding the position for several years. He was four times elected supervisor of Bedford and twice the chairman of the Board of Supervisors. In 1848, and the year following, he was elected to the Assembly. In 1853 he was chosen to the state Senate and at once took a prominent position therein. Among other public acts he introduced the bill for establishing the Department of Public Instruction, which has proved one of the most important measures in the educational history of the state. In 1855 Mr. Robertson was elected county judge of Westchester and was twice reelected, making a continuous service of twelve years. It is interesting to know that Judge Robertson was the last county judge to hold court at the old court-house at Bedford village and the first to sit at the new court-house at White Plains. He served six years as Inspector of the Seventh Brigade, New York State Militia, was chairman of the military committee appointed by Governor Morgan, in 1862, to raise and organize state troops in the Eighth Senate

District, and was commissioned to superintend the draft in Westchester County. As a member of the Electoral College he voted for Abraham Lincoln in 1860 and supported him again in 1864. In 1866 he was elected as a representative to the Fortieth Congress and took an active part in the legislation which led to the restoration of the Southern states to the Union.

In 1872 Judge Robertson was again elected to the state Senate, commencing a term of service which continued without interruption for ten years, during the last eight of which he was president *pro tempore* of that body. He served as Chairman of the Committee, on Commerce and Navigation, Rules, Literature and Judiciary. As the head of the judiciary committee for eight years he occupied a position of great responsibility and one in which his ability and watchfulness were constant checks to unwise and improper bills. Throughout this period he never missed a meeting of the committee.

During his senatorial career Judge Robertson participated in the state trials of Judges Barnard, McCunn, Curtis and Prindle, Superintendent De Witt C. Ellis, of the Bank Department, and Superintendent John F. Smythe, of the Insurance Department.

In the excitement which followed the Presidential election of 1876, Judge Robertson was one of three gentlemen of New York state selected by the President to visit Florida and supervise the counting of the votes for Presidential electors therein.

In June, 1880, he was a state delegate to the National Republican Convention at Chicago. His repudiation of the unit rule, followed by his leadership and organizing ability at the convention, concededly defeated it and disposed of that question for all time.

In 1881 his nomination by President Garfield for Collector of the Port of New York was bitterly opposed by the senators from New York, who demanded the withdrawal of his nomination by the President. The contest resulted in the resignation of the senators and the confirmation of Judge Robertson as collector soon after.

A writer, referring to Judge Robertson as collector, says: "His judicial and legislative experience had prepared him for the most difficult duty of the position, the consideration and decision of intricate points of revenue law; and he discharged its obligations to the satisfaction of the importers and with the almost universal commendation of the public press."

In his political career he was never defeated when a candidate before the people, however adverse the party majority may have been in the district when he made his canvass. In the opinion of those most intimately acquainted with him the achievement of this result is attributable to "the strength of his personal character, his fidelity to his friends, his uniform and sincere courtesy, his unquestioned integrity and his legal and business ability."

As a lawyer Judge Robertson was in the front rank of his profession for many years. He stood high in the estimation of his fellow lawyers for his thorough knowledge of the law and his application of it to cases according to his good business judgment.

On the organization of the Bar Association of Westchester county in 1896 he was its first President. He was President of the New York State Bar Association for the years 1895 and 1896. He was also a member of the American Bar Association and attended many of its annual meetings. At the meeting at Detroit in 1895 he was a delegate from the New York State Bar Association.

Judge Robertson had literary tastes and studious habits, in recognition of which the degree of LL.D. was conferred on him by Williams College in 1876.

In 1865 he married Mary E. Ballard, daughter of Hon. Horatio Ballard, who was a prominent lawyer of Cortland County. Since 1869 he had resided at Katonah, where he was recognized by the entire community as a valued counselor, a trusted friend and a public-spirited citizen.



## SHERMAN S. ROGERS.

Sherman S. Rogers was born at Bath, New York, on the 6th day of April, 1830. He was the son of Dr. Augustus Rogers, a physician of standing and professional reputation. His mother was Susan A. Campbell, a woman of Scotch ancestry and sturdiness of character. Young Rogers prepared for college but never entered. Instead of a college education, at the early age of sixteen he began the study of law in the office of McMasters & Reid at Bath, and later continued his course in the office of Haven & Smith at Buffalo. When twenty-one years of age he was admitted to the bar, and formed his first partnership with his uncle, Ex-Lieut. Governor Robert Campbell, and Charles Campbell at Bath. After remaining at Bath three years Mr. Rogers went to Buffalo and formed a copartnership for the practice of his profession with his uncle, Henry W. Rogers, and Dennis Bowen. The firm was known as Rogers, Bowen & Rogers. In 1860 he withdrew from the firm and practiced alone for four years, but in 1864 he again associated himself with his former law partner, Dennis Bowen, and a little later admitted Franklin D. Locke into the firm, and for many years the law firm of "Bowen, Rogers & Locke" remained unchanged, having a practice among the largest and most successful of the City of Buffalo. In more recent years the firm was known as "Rogers, Locke & Milburn," Mr. John G. Milburn being associated with the firm, a relationship which lasted until the death of Mr. Rogers.

From the very beginning of his professional career Mr. Rogers was recognized as a lawyer of unusual ability and power. His grasp of legal principles was strong and intuitive, and he strengthened a natural legal mind with careful study and reading. He readily became a leader, both in the trial of jury cases and in argument before appellate benches. This standing he maintained to the end, although in the later years of his life retiring somewhat from the more active practice of his profession.

Until the outbreak of the War of the Rebellion, Mr. Rogers was a Democrat, but at that time became a supporter of the Republican party, and a warm advocate of its principles.

In 1872 he was appointed a member of the Commission to revise the State Constitution. In 1875, at the urgent solicitation of his party, he became its nominee for state Senator. For several terms the position had been filled by a Democrat but Mr. Rogers was elected by over 3500 majority, the largest up to that time ever given to any candidate in that district. As a senator and legislator he so impressed the state with his character and abilities that before the completion of his term he was nominated for Lieutenant-Governor on the ticket headed by Governor E. D. Morgan. Although the Republican party was defeated at the election, Mr. Rogers received the highest vote of any candidate on his ticket.

Mr. Rogers was always the friend and promoter of movements looking to the securing of reforms and the elevation of the public service. His activities in these directions were varied and many, but the one which engaged his heart and mind above all others was the reform of the Civil Service. From the very inception of the movement he was one of its staunchest supporters and advocates. He was associated with George William Curtis in the organization of the National Civil Service Reform Association. From the formation of that organization to the day of his death he was one of its Executive Committee and of its trusted counsellors. For many years he was the President of the Buffalo Civil Service Reform Association, and the recognized leader of the movement in that city. He was active in securing the incorporation of the Civil Service clause in the present Constitution of New York and the section as finally adopted by the convention was drawn by his hand.

He will be long remembered by his professional associates as a gifted and able lawyer, but longer by his fellow citizens as a model citizen. His life was beneficent and useful, as his character was one of singular uprightness and integrity. He

gave largely, both in time and in money, to public and private charities, and, in short, in him "whatever things are true, whatever things are honest, whatever things are just, whatever things are pure, whatever things are lovely, whatever things are of good report," found a friend and advocate.

He died at the home of his son, Robert Cameron Rogers, at Santa Barbara, California, on the 23d day of March, 1900. Until a few days before his death he seemed to his friends to be in the perfection of physical and mental vigor, and to the very end a kind Providence blessed him and showed to him the favors of a well-beloved son.

### JOHN SABINE SMITH.

John Sabine Smith was born at Randolph, Vermont, April 24, 1843, and died in New York, November 6, 1900. He came of sturdy New England stock; his great-grandfather was the first settler in the town of Windsor, Vermont, and his father and grandfather were both born and reared in that state. For half a century his father, John Spooner Smith, was a physician of excellent repute and standing in the village where the subject of this sketch was born. His mother, Caroline Sabine, was the daughter of an estimable Episcopal clergyman, who came from England in the early part of the century. It was from his mother's family that he received the now familiar middle name which, in New York city at least, he made conspicuous and distinguishing. From his mother he imbibed his Christian faith, and during his entire residence in New York he was a faithful attendant and consistent worshipper at Grace Church, where his numerous friends joined in the sad and impressive ceremonies preceding interment.

At the age of twenty he was graduated at Trinity College, at the head of the class. His father had been unable to assist him to any great extent; but he found a friend from whom he obtained loans of money from time to time, with which, together with what little he was able to earn, he succeeded in

finishing his course, but sadly in debt. His first thought was given to the repayment of these loans; and to enable him to do so he secured an engagement as teacher in the schools of Troy, New York. About the same time he began the study of law in the office of ex-Judge Gould, and until about the time of his admission to the bar, he continued in his position as teacher. In 1868, at the age of twenty-five, he passed a creditable examination, and was admitted to practice. He had succeeded in paying off all his debts, and with a few hundred dollars in his pocket he came to New York city to practice his profession, going first into the office of W. E. Curtis, later Chief Justice of the Superior Court, as managing clerk. As soon as he felt secure in his ability to manage for himself he opened his own office, which he subsequently maintained without partnership until his death.

He was fortunate with clients, handled their cases skillfully, managed all negotiations adroitly, put his usual energy and earnestness into all that he did, and he soon had a lucrative practice. With him a client gained was always saved. Although not identified with any cases of great public interest that made him a conspicuous member of the bar, he was nevertheless well known to the profession as a reliable lawyer, one who always came to court with his cases most thoroughly prepared, a complete master of all the details, and with a well matured policy of prosecution or defence that was rigorously pursued to the end.

In his later years, it was Mr. Smith's political career that brought him most conspicuously before his fellow-citizens in New York City. He was an ardent Republican and entered actively into the work of his party, having zealous convictions and special aptitude for political work and the arduous details that such work implied in the great City of New York, where he subsequently became a leader. He served one term as President of the Republican County Committee, and at the time of his death was its Treasurer. He was active in enlarging and revitalizing the Republican Club of the City of New

York, of which he was for several years Vice-President, and by unanimous election, its President in the year 1893. By nature, he was aggressively earnest in everything he undertook; but he was gentle, good natured, kindly disposed, full of humor and an exquisite comrade. His friendship was helpful, trustful and confiding, never turning a deaf ear to the troubles of a friend and never hesitating to offer a helping hand to an unfortunate foe. He was a hard working and successful lawyer, trustworthy in counsel and indomitable in conflict.

His death was widely lamented, and came, as it seemed to his friends, just at the time when a larger measure of prosperity was opening to view, and when his varied experiences could be of material personal advantage, and when high honors seemed near at hand. What he was and what he did in his chosen profession and among his social and political associates, will be held in tender and respectful memory by a large multitude of friends.

### SIMON STERNE.

So many were the directions in which Mr. Sterne's influence was great and active that the space here allotted permits only a bare summary of his life's work—as a lawyer, a political and social economist, a public-spirited citizen—specially fitted by his energy and tact, as well as by the great and ever-increasing confidence of his fellow citizens, to serve whenever a good cause needed a leader.

Born at Philadelphia in 1839, he was a student at the University of Pennsylvania; later, spending several years abroad in travel and study, he studied in John H. Markland's law office, was graduated, in 1860, from the law department of the University of Pennsylvania, and, in the same year—already a talented lawyer and publicist—was admitted to the bar—both in Philadelphia and New York.

From 1862 to 1865 he was the Cooper Union lecturer on political economy. In 1864, with William Cullen Bryant and

Alfred Pell, he organized the American Free Trade League. In 1865, again visiting Europe, where he became a friend of John Bright and John Stuart Mill; his correspondence with Mr. Mill continued until the latter's death.

With David Dudley Field, Mr. Sterne organized the Personal Representation Society in advocacy of minority representation in business and politics; he was first its Secretary and afterwards President. Returning, in 1870, from a trip to South America and Europe, Mr. Sterne made the choice at which he hesitated for some time, between abandoning the practice of law at New York or attempting the reform of the judicial and other scandals of the Tweed administration. Taking the bolder part, he was one of the first members of the Committee of Seventy, became its Secretary, drafted the charter known as the Committee's Charter, and for eighteen months—until a reform Mayor had been elected, needed legislation enacted, the Tweed ring broken and its members sent into exile or prison—gave to the public service most of his time and effort.

In the Fourth Avenue Tunnel litigation he experienced the sinister influence of railway corporations upon legislative bodies; and thereafter, to the day of his death, he led in a series of successful attempts, both in the courts and by legislation, to curb private monopoly.

His address on "The Railway in its Relation to Public and Private Interests," at Steinway Hall, the Mayor of New York presiding, brought about, in 1879, the appointment of a legislative committee to investigate and report on the abuses of railway management; and at the request of its chairman, the Chamber of Commerce and the New York Board of Trade, Mr. Sterne conducted the investigation as its counsel. The committee reported that his charges were fully sustained, and recommended a bill drafted by Mr. Sterne providing for a Board of Railroad Commissioners, which, with but slight amendment, became the law of the state.

In 1876 he was appointed by Governor Tilden as one of the Evarts Commission to devise a plan for government of the cities

of the state, which commission—working for two years without compensation—made a report from which has been derived much of the law on the city administration since then enacted both in New York and elsewhere.

In 1882, during the strike of the freight handlers for increased wages, he successfully conducted, on behalf of the Chamber of Commerce and the New York Board of Trade, mandamus proceedings to compel the railroads to carry freight, thus reversing earlier decisions in favor of the railroads and breaking what had been the most potent weapon of monopoly at once against the public and organized labor.

For thirty years before his death he had been one of the leaders of the New York Bar Association and leading counsel in many important tax and corporation, especially railroad, cases. He drafted the Interstate Commerce Act at the request of the Senate Committee on Railroads; was counsel before the Interstate Commerce Commission in many of the most noted cases ever heard by it; and in the late case of *Farmers' Loan & Trust Company vs. New York and Northern Railway Company*, he secured a reversal, by the New York Court of Appeals, of the judgment below, vindicated the rights of minority stockholders, defined the obligations of corporate directors and made the case a leading one in application of equity rules to corporate, especially railroad, management.

Among minor items of his life's work he was editor, in 1867, of the *New York Commercial Advertiser*. Besides many articles contributed to periodicals and reviews in this country and Europe on social economics, American city administration, legislation, monopoly and railroads, he published "Representative Government" and "Development of Political and Constitutional History of the United States"; was a voluminous contributor to Lalor's "Cyclopedia of Political Science and United States History," and wrote the introduction to Mongredien's "Wealth Creation."

He was a member of the Cobden and Athenæum Clubs of London; of the Manhattan, Reform, Democratic, Nineteenth

Century and Lawyer's Clubs of New York, and of the Latash-guan Salmon Club and Blooming Grove Park Association of Pike County, Pennsylvania.

Shortly after 1860 he married Miss Mathilde Elsberg, who, with a daughter, survives him.

After a life's work, such as might well have filled a century, he was fresh in mind, hopeful and genial in disposition, young in vigor and not old in years when he passed away.

## OHIO.

### GAMALIEL E. HERRICK.

The late Gamaliel E. Herrick, for many years one of Cleveland's leading lawyers, was born in Wellington, Ohio, on January 17, 1828, his father having moved to that place from Massachusetts when a young man.

His early education was obtained in Wellington, and later he attended Oberlin College. After leaving college he spent two years in Elyria, Ohio, but at the end of that time, having an opportunity to study law in Cleveland in the office of Andrews, Foote & Hoyt, one of the most influential firms in that part of the country, he left Elyria and went to Cleveland to live.

In 1852 Mr. Herrick was admitted to the bar and soon became one of the most successful of the younger members. After practicing alone for some time, he entered into partnership with Merrill H. Barlow. Several years later, when this partnership was dissolved, a new one was formed with his brother, Col. J. F. Herrick, and this continued for fifteen years.

In 1860 Mr. Herrick was married to Miss Ursula Andrews, a daughter of Judge Sherlock J. Andrews, who, during his long career, was very prominent, not only in the practice of law, but also in political life.



Mr. Herrick, during the latter years of his life, did not confine himself to the law, but was actively engaged in many business pursuits, and was a director and trustee in some of the foremost corporations of the city. He was an active member of the Old Stone Church, and for fifteen years, up to the time of his death, was president of the Church Society. He was always interested in the benevolent work of the city which was shown by his having acted for a great many years in the Board of Trustees of the Humane Society and Bethel Union.

With the Cleveland Art School Mr. Herrick was also closely connected, and in fact was always deeply interested in everything pertaining to the intellectual growth and development of the city. He was a member of the Union and Country Clubs and of the Chamber of Commerce.

After an illness of but three days, Mr. Herrick died of pneumonia at the Manhattan Hotel, New York City, on May 28, 1900.

Two daughters, Ella Hoyt Herrick and Ursula Andrews Herrick, and a son, Frank R. Herrick, survive him.

### WILLIAM McKINLEY.

William McKinley was born at Niles, Ohio, January 29, 1843, and died at Buffalo, September 14, 1901. After leaving the public school he attended a high school for several years. At the age of seventeen he entered Allegheny College, but returned home in a few months in consequence of illness. Subsequently he was the teacher of a country school for a few months; then a clerk in the post-office at Poland, Ohio; then, at the age of eighteen, a soldier in the Civil War for four years. During these years he filled every rank from private to major.

To the collective factors in his early education, thus hastily enumerated, must be added another one of very first importance, especially in the formation of character—the influence of

home. His father, of Scotch-Irish stock, and his mother, of English descent, were notable people, both physically, morally and intellectually. There was no wealth to divide among their nine children, but in respect to strict precept, wholesome example and upright Christian lives, no family was more richly endowed.

With his character strengthened by years of discipline and service in the army, his mind stimulated by association with such lawyers as Stanley Matthews and Rutherford B. Hayes, who were his companions in arms, he resolved upon his return to civil life to study and practice the profession of the law. He was fortunate in his choice of a preceptor in the person of the late Judge Glidden of Mahoning County, well and favorably known to the Ohio bar. After a course in the Albany law school, he was admitted to the bar in 1867 and opened an office for the practice of his profession in Canton, Ohio. In the succeeding ten years, and until his election to the House of Representatives of the United States for the term beginning March 4, 1877, he was continuously and actively engaged in practice in Stark County; for one term he served with marked distinction as prosecuting attorney. To every cause he gave a full measure of preparation. He was particularly distinguished as an advocate, presenting his causes to juries in such fair and just manner as to command their confidence and respect. To the court, upon questions of law, he was lucid, strong and convincing, never pressing an argument which he did not believe in himself. To his adversaries at the trial table he was ever courteous and considerate, realizing that the objects of legal investigation are to arrive at the truth and subserve the ends of justice. He always aimed to keep forensic discussion upon the high plane of honest difference as to law or fact, and never indulged in personalities with opposite counsel or witnesses. To his colleagues he was ever considerate, doing his share of the labor in a case, and never shirking responsibility or withholding from his associate the share of honor and praise which was his due.

Early manifesting a strong interest in national and state politics, he became a careful student of public questions, and by his industry, natural force and eloquence soon acquired a wide-spread fame as a political orator and debater.

In 1876, at the time when his friend and military chieftain, Rutherford B. Hayes, was chosen to the Presidency, Major McKinley was elected a member of Congress from his district. For fourteen years he rendered honorable and efficient service as a representative; he retired from Congress as the chairman of the Committee on Ways and Means after framing the tariff bill which has gone into history bearing his name. Defeated for Congress in a new district where conditions made such a result inevitable, he never faltered in his adherence to the principles he believed to be best for the public good, but after his defeat confidently appealed to the people for a vindication of his political conduct and was twice elected Governor of Ohio.

Chosen to the high office of President of the United States, he entered upon its duties on March 4, 1897. He found the country upon the verge of war, with the sympathies of the nation aroused for a suffering people near our own shores. With a firm purpose to relieve their distress and to secure for the oppressed better government and fairer treatment, at the same time safeguarding our own interests, he bent every energy to accomplish this purpose by peaceful means. By steady pressure upon the Spanish government he obtained many concessions looking to the better treatment of the Cuban people, and seemed in a fair way of obtaining the desired ends, when the destruction in the port of Havana of a ship of the American navy, with her officers and crew, determined the American Congress to demand an end of Spanish sovereignty in Cuba.

He had been a soldier and realized the horrors of war and the untold suffering it would visit upon innocent people. He remained firm in his determination to prevail by peaceful methods if possible, yet resolved that existing conditions should no longer prevail in Cuba. While preparing for war with tireless energy, he did not relax his efforts for an honora-

ble peace until the Spanish government answered our demand for its withdrawal from Cuba and its adjacent waters by sending passports to our minister at Madrid.

Knowing that nothing is so cruel as a long struggle at arms, he bent every energy of the government to a vigorous prosecution of the war by land and sea. At the close of the struggle, he directed the conclusion of a peace which, recognizing the purposes of the war and the obligations arising from its prosecution, forever banished Spanish rule from the Western Hemisphere, and took upon the nation the supreme duty of raising to political manhood and capacity for self-government many millions of oppressed people in distant islands of the sea. It was his privilege to behold at the close of the war a country united as never before, recognized as one of the most foremost peoples of the earth.

Major McKinley's methods, both as a reasoner and a speaker, were peculiar to himself. To many phases of oratorical embellishment he was almost a stranger. Humor and pathos were conspicuously absent. There was no word painting or flowery rhetoric; rarely an anecdote. His strength lay in his partiality for plain, strong statement couched in short Saxon words, and short, pithy, easily comprehensible sentences. Many of his state papers are as fine models of this simplicity of style as can be found in our literature.

His eminent place in the history of our country will, however, be due principally to his tact as a political leader and his prudent statesmanship. Even before his election to the Presidency his services as a political speaker were in great demand; he made campaigns in most of the states of the Union. During his presidential term he spoke frequently on public occasions; he made journeys of thousands of miles, delivering hundreds of speeches on the way. These utterances had as their evident, and even avowed purpose, the design of getting an expression of the popular will concerning new questions and policies that had arisen to confront the administration.

He was nominated for Congress by seven conventions, for Governor of Ohio by two and for president by two, always by acclamation. His election succeeded upon all of these nominations but one, that of his nomination for Congress in 1890. He declined to be a candidate for the presidential nomination in the national conventions at Chicago in 1888 and at Minneapolis in 1892. In the first of these he was chairman of the Committee on Resolutions. At Minneapolis he was president of the convention.

On March 4, 1901, he was inaugurated for his second term, a period in which there was every promise of a return of an "era of good feeling," such as the country had not enjoyed since the administration of James Monroe. The victories of peace were to succeed the victories of war. In July he came to Canton, jubilant in the hope of a long and restful vacation amid the scenes of his youth and in the companionship of those he loved. He would be at home once more; he had not possessed a home of his own for twenty years. Fortunately, he was able to buy back his old home, the house in which he had begun his wedded life and where his two children were born and had died.

Of the many invitations received by the President to attend public functions in the summer of 1901 he accepted but two; he arranged to visit the Buffalo Exposition the first week in September, the Grand Army re-union in Cleveland the second week; then, after another week at Canton, he intended to resume his duties at Washington. In these last days in Canton the President's mood was unusually hopeful and joyous; exuberance of good cheer beamed from his face as his townspeople escorted him to the train, and as he bade good-bye to the circle of familiar friends from the platform of the car on the morning of September 3d.

On the fifth, in his address at the Exposition, he reached what was probably the highest pinnacle of his eloquence on the tribune. On September 6th, having already seen the Fair and visited Niagara Falls, there only remained to him

his greatest pleasure, that of receiving and returning the greetings of his fellow countrymen. In the long line that approached him came the assassin. To the President's outstretched hand he lifted his own covered with a handkerchief, from beneath the folds of which he fired two bullets into the President's body. The first inflicted only a flesh wound; the second penetrated his body. From the effect of this wound he died September 14, 1901.

During the eight days preceding his death the public suspense was intense. On the sixth day his recovery was predicted and the joy was general. During the following night there was a change for the worse. After the morning of the thirteenth the bulletins held out no hope of recovery. Manifestations of grief were extraordinary, and messages of sympathy poured in from all the countries of the world.

When the President was shot his first impulse was to save his assassin from violence; his first prayer was that God would forgive him. The story of his deathbed is one of the most touching in history. His goodness of heart, his patience, his resignation, surpassed the power of words. Hand in hand with his wife whose happiness, whose very life, was due to his tender, long continued loving kindness, he sank to rest murmuring "Nearer, my God, to Thee."

In due time history will fit the administration of William McKinley into its proper relations with concurrent events. Whatever the conclusions that may finally be reached, the dominance of his philanthropy and of his desire to make his administration expressive of the will of the people, will never be questioned. The lesson of his personal purity, of his courageous struggle and its rewards, will not be lost. His Christian life and his Christian death will be a precious legacy to his countrymen and to posterity.

## PENNSYLVANIA.

## EDWARD P. ALLINSON.

Edward P. Allinson was born at Burlington, New Jersey, on November 21, 1852. He was educated at the old Westtown Academy near Chester, Pennsylvania, and afterwards entered Haverford College, from which he graduated in the class of 1874. He studied law with James E. Gowen, Esq., of the Philadelphia bar, and was admitted to practice in Philadelphia in 1876.

He took an active part in the reform movement from 1877 to 1882. In 1882 he entered into partnership with S. Davis Page, Esq., and later on Boise Penrose, Esq., now Senator from Pennsylvania, became a member of the firm, which was then carried on under the name of Page, Allinson and Penrose.

Mr. Allinson, in 1891, took charge of the *Legal Intelligencer*, now in the fifty-eighth year of its continuous publication, and adopted many improvements, among which was the plan of publishing the reports first of the Supreme Court and afterwards of the Superior Court of Pennsylvania in advance sheets. The difficulties in carrying out this plan were serious, and it is impossible to speak too highly of the persistent and resourceful industry with which they were gradually surmounted. He also conceived and carried out the plan of publishing the more important decisions of the lower courts throughout the state in a permanent series known as the District Reports.

In the summer of 1894, Mr. Allinson, deeply impressed with the advantages both to the profession and to the community, of a State Bar Association, put himself into communication with the leading lawyers throughout the state and suggested the advisability of calling a convention with a view to organizing such an association. The call was made in November, 1894, and was signed by over seven hundred members of the bar of Pennsylvania, representing every judicial district. The Association was formed at Harrisburg in January, 1895, the convention being attended by nearly two hundred members of

the bar. Mr. Allinson was elected Secretary. On July 10, 1895, it held its first meeting at Bedford Springs. It owes its existence, its eminently creditable record and the high position it holds to-day in the commonwealth and among like associations in other commonwealths, very largely to the industry, tact and broad public spirit of its Secretary. He held this position until his death.

In a minute adopted at a meeting of the members of the Philadelphia bar, held soon after he died, it was said :

“ The Pennsylvania Bar Association was his child. He conceived the idea, and, in the face of much discouragement, made friends for it, and finally brought it to a successful issue. And not only was he its founder, but he was also its guiding hand during the years that have since passed. No one else was so influential, unobtrusive as was his skillful touch in determining the policy of the Association and the course of its affairs ; and to no one else is the Association so much indebted for ceaseless oversight, minute supervision of details and unstinted effort to advance its interests.”

It may be added that the Association has a membership which includes, substantially, the whole working bar of the state, that its meetings have always been very largely attended, and that it has achieved a position of the greatest influence for good throughout the state.

On the formation of the Superior Court, Mr. Allinson was appointed Assistant State Reporter, and upon the expiration of his term of office was re-appointed. He performed the somewhat exacting duties of this position with a promptness and accuracy which was satisfactory both to the court and the profession. In fact, whatever he undertook to do, he did thoroughly and never shirked his work, even when unremunerative.

In his busy life he found time to take an active interest in the affairs of his *alma mater*, Haverford College. He was for many years Secretary of its Alumni Association, and for two years President of the Association.



His reading was by no means confined to his profession, and he was deeply interested in historical and social questions. His article upon the history of ground rents in Philadelphia, and his work in collaboration with Senator Penrose on the "History of Municipal Development in Philadelphia," published in 1887 in the Johns Hopkins University Study Series, attracted no small attention.

He was a born organizer, and had wonderful ability in keeping different organizations running with a minimum of friction.

His literary abilities were very considerable, and there was always about him a genial kindliness and sympathy, and an almost inexhaustible fund of quiet humor, which rendered him one of the best of companions and drew men of apparently diverse gifts towards him as if by some attraction at first sight almost inexplicable. It might be said of him with truth that few men in the state had a larger and more extended circle of really close friends in the profession.

Mr. Allinson died on January 16, 1901, after an illness of only three days.

### GEORGE W. HEIGES.

George W. Heiges died on December 3, 1900, at his residence at York, Pennsylvania. He was born in York County, Pennsylvania, May 18, 1842, the son of Jacob and Elizabeth (Mumper) Heiges, both of German extraction.

He studied first in the public schools and also under private tutors; later he completed a course of academic studies, after which he taught in one of the public schools of his native place. He was thus occupied for several years in the borough and county schools, becoming subsequently the principal of the York Classical and Normal Institute. Later he was appointed one of the principals of the local normal school and tutor in the county academy. Upon resigning he became deputy county superintendent for one year. After completing the usual course of legal studies he passed his examination, was admitted to the bar of York County in 1867, and imme-

diately began practice. His industry and talents won him a high reputation and a good practice. Entering politics, he was in 1872 elected to the Pennsylvania legislature on the Democratic ticket and was re-elected in 1873. While serving in that body he was a member of the Judiciary General and Local Committees, of the Constitutional Committee and of the Judicial Apportionment Committee; also of various other committees of less prominence and importance.

After his retirement from the legislature, Mr. Heiges devoted himself to the practice of his profession and served in a number of public appointive and elective offices. In 1877, 1878 and 1879 he served as counsel to two successive boards of County Commissioners. For several years he was local solicitor of the Pennsylvania Railroad. He held a like position in the service of the Dillsburg and Mechanicsburg Railroad.

In 1885 he was given the nomination by the Democratic party, and was elected to the office of Chief Burgess of the borough. In 1886 he was re-elected. As Burgess he assisted materially in making York a city in that year. He declined the nomination for Mayor.

Mr. Heiges was prominently affiliated with the Masonic order, in which he was a Past Master. He was a Knight Templar, an Odd Fellow, an Artisan and a member of the Royal Arcanum.

He was also a member of several legal and historical associations. His religious faith was Episcopalian.

Mr. Heiges is survived by a widow and one son, Start Sprigg Heiges.

At a meeting of the bench and bar on the occasion of his death, a minute was adopted from which the following is taken :

"Mr. Heiges was a sound and able lawyer and a skillful practitioner. He was always courteous in his dealing with his professional brethren, true to his clients and faithful to the court. As a man he was honorable and just; as a representative in the general assembly he was faithful to his constituents

and to what he believed to be for the best interests of the state; as a chief executive officer of the borough of York he was conscientious in the performance of his duty toward the municipality and her citizens; as a lawyer he ever relied upon the strength and justice of the cause of his clients, and never attempted to achieve success by any but the most honorable means."

### WILLIAM B. LAMBERTON.

William Buehler Lamberton was born at Harrisburg, Pennsylvania, March 14, 1855, and was the eldest son of the late Hon. Robert A. Lamberton, LL. D., and Annie Buehler Lamberton. He died at Philadelphia July 7, 1901. He was educated at the Harrisburg Academy, Phillips Academy, Andover, Massachusetts, and Yale University, graduating from the last in the class of 1876, with high honors. During his college course he gained a number of prizes in mathematics. After graduating he was entered as a law student in the office of his father at Harrisburg. In May, 1877, he went abroad and was matriculated in the University of Leipzig, and continued to attend law lectures and to travel in Europe until August of 1878. He was admitted to the bar of Dauphin County November 25, 1878, and entered his father's office, where he continued until April, 1880, when Dr. Lamberton accepted the presidency of Lehigh University, South Bethlehem, Pa. In September, 1881, he formed a partnership with his brother, James M. Lamberton, which continued until 1887.

He was admitted to practice before the Supreme Court of Pennsylvania in May, 1882, and before the Supreme Court of the United States in April, 1890. For several years he was a member of the Board of Examiners for admission to the bar of Dauphin County. In 1893 he was elected a member of the American Bar Association, and was one of those who formed the Pennsylvania Bar Association in 1895.

In 1880 he succeeded his father as counsel at Harrisburg for the Philadelphia and Reading Railroad Company and its associated companies.

He was a vestryman and treasurer of St. Stephen's Episcopal Church for a number of years, frequently one of its delegates to the Convention of the Diocese of Central Pennsylvania. He was a manager of the Harrisburg Hospital from 1887 until the spring of 1895, when he was appointed by Governor Hastings a member of the Board of Public Charities of Pennsylvania. Not being able to discharge his official duties on the Board owing to ill health, he resigned in June, 1896.

Mr. Lamberton was a Mason and held important Masonic offices. He was also a member of the Order of Odd Fellows.

In social life Mr. Lamberton was prominent and was one of the originators and incorporators of the Harrisburg Club, a member of the Inglenook Club, of the Rittenhouse Club of Philadelphia and of the Philadelphia Gun Club. He was a member of the Dauphin County Historical Society and Secretary of the Harrisburg Benevolent Association, and for some years a director of the Harrisburg Opera House Association and of the Harrisburg Bridge Company and a member of the Board of Trade of Harrisburg.

## RHODE ISLAND.

### EDWIN DANIEL MCGUINNESS.

Edwin Daniel McGuinness was born in Providence, Rhode Island, May 17, 1856. He received his education in the public schools of his native city, and was prepared for college in its high school. He was graduated from Brown University in the class of 1877. He then entered the law office of Charles Pitts Robinson, in Providence, and studied law there and at the law school of Boston University, where he graduated as Bachelor of Laws in 1879. He was admitted that year to the Rhode Island bar and became engaged in active practice as the senior member of the firm of McGuinness & Doran.

Early in life he became actively interested in political affairs. He was elected Secretary of State on the Democratic ticket in

1887 and again in 1890. He was Alderman from Ward 3 from September, 1889, to January, 1893. The Democratic city convention nominated him for Mayor that year, but he was defeated. Being again nominated for Mayor the next year, he was again defeated, but only by a few votes. At the next election, receiving the support of a strong independent vote, he was elected Mayor, and he served with signal ability until 1898, when he declined a reëlection. But few men in public life in Providence developed as he did in strength of character and political independence. His administration of his high office was non-partisan, and his record as Mayor will prove his lasting memorial. Openly announcing his belief in the course he pursued, he was supported by the best men of all parties. As indicative of the non-partisan independent support he received and of the endorsement given him for his successful administration of the city's affairs, he received a re-election by a majority of more than 10,000 votes, while at the same election Mr. McKinley carried the city by nearly 7000 votes.

He was interested in many matters of public concern. In 1879 he was adjutant of the 5th battalion of the militia of his native state. In 1881 he was promoted to and became major, and he served in that position until 1887. For many years he was Supreme Trustee of the Catholic Knights of America. He was President of the Brownson Lyceum for two years. He was a member of the Rhode Island Historical Association, the West Side Club, the Reform Club of New York, the Clover Club of Boston and of many other clubs, societies and organizations.

His intense devotion to his duties as Mayor injured his health and brought on a disease which rapidly and prematurely terminated his career on April 21, 1901. He left behind him the memory of a faithful public servant. He was genial, cheerful in disposition, warm in his affections, loyal, faithful and true. He was sincerely respected for his character and beloved for his generous and high qualities.

## VERMONT.

## CHARLES MANLEY WILDS.

Charles Manley Wilds was the only son of Manley and Sophia (Percival) Wilds, and was born in Bristol, Vermont, February 8, 1856. He died at his home in Middlebury of acute tuberculosis on the 15th of February, 1901. In 1879 he was married to Miss Frances Wright, the daughter of the late H. Bruce Wright, of Middlebury. She died in June, 1891, leaving him three children.

His boyhood was passed in his native town where he fitted for college. He entered Middlebury College when only fifteen years old, in the class of 1875. Before graduation he had developed that splendid physique and noble presence which lent force and dignity to his great intellect. He was honored both in the academic hall and in the athletic field. He was tireless in efforts of mental as well as of physical power.

After graduation at Middlebury he took a post-graduate course at Yale in mathematics, of which he was especially fond and in which he was very efficient. In 1878 he began the study of law with Judges Torrey E. Wales and Russell S. Taft in Burlington, remaining there till 1879, when he entered the office of Stewart & Eldredge in Middlebury. After his admission, Mr. Eldredge retired from the firm, and in 1883 Mr. Wilds formed with Hon. John W. Stewart the law firm of Stewart & Wilds, which lasted till his death. Mr. Wilds, from the beginning, devoted himself to the study and practice of the law with characteristic devotion. He was distinguished as an all-around lawyer. Not only in actual conflict, where his mastery of intricate facts, his intuitive right perception of doubtful law, his confident manner, his genius in cross-examination, and his unerring view of the end from the beginning

“Proclaimed no carpet knight in him,  
But in close fight a champion grim;”

but in consultation, and especially in matters of delicate character, in entanglements involving difficulties and where the way

was hard to find, his clear vision soon discovered the safe course.

The legal abilities of Mr. Wilds were dignified and made more potent by his delicate conscience and professional honor. No one knew him better than the present Chief Justice, who has said of him most justly, "His ability and capacity are known to many, and I never knew a man more radically honest, upright and straightforward than he." Long before his practice became cosmopolitan, Wilds was the acknowledged leader in the Champlain Valley. He was no less a leader in politics, although he never would accept political office. He was never an ultra party man, but was yet an orthodox Republican. All public affairs interested him. In 1892 he was one of the presidential electors. His office was the headquarters of the party, and the Republican programme for Vermont was constantly under his hand and eye. Whatever of local success in his profession was attainable, was his from the first; but this was to him a preparatory period during which he devoted his leisure to the deepest and most exhaustive study of corporation law, of which he became as early as 1896 one of the most consummate masters in New England. In 1896 he was retained by Charles M. Hayes and Edward C. Smith, receivers of the Central Vermont Railroad, and after the settlement, whereby the Central passed to the Grand Trunk, he was continued counsel in the management of the great Grand Trunk System, and so continued till his death. In these railroad battles Mr. Wilds was confronted by the most eminent corporation lawyers of the land and never to his discomfiture, but always with a surprising measure of success. He was perfectly equipped for this warfare, but it is probable that his enthusiasm carried him beyond his strength. A little more than a year before his death the steady step began to falter, the regal head to droop. He was advised that he must take a rest. Accordingly, he took a two months vacation in the south, including some experience on the sea, and on his return seemed much improved. He resumed his work, but with halt-

ing and uncertain hand. But the disease rapidly progressed, the great heart failed and the dauntless spirit passed away.

## WYOMING.

### BENJAMIN F. FOWLER.

Benjamin F. Fowler, a leading lawyer of Wyoming and one of the best known public men of that state, died at his home in Cheyenne on October 31, 1900.

Mr. Fowler was born at Hanover, Illinois, November 11, 1860. He was educated in the schools of his native state, graduating with honors from the German-English Normal School at Galena, Illinois. For several years thereafter he taught school and was principal of the public schools at East Dubuque, Illinois, at the time he commenced the study of law in the office of Shiras, VanDuzee & Henderson, of Dubuque. Soon after coming to Wyoming he was elected prosecuting attorney for the County of Crook. From the very first Mr. Fowler took a prominent part in the councils of the public men of Wyoming and at the time of his death enjoyed a wide acquaintance both within and without the state.

Mr. Fowler during his brief career held many offices of public trust, in all of which he displayed signal ability. He was twice appointed by President Harrison to the office of United States Attorney. In 1894 he was appointed by the Governor of Wyoming to the office of Attorney-General.

As a lawyer Mr. Fowler stood high in the profession. He was a man of untiring industry, a most excellent counsellor, but especially did he command the admiration of those in a position to appreciate his talents and ability in the careful and thorough way in which he prepared his cases for trial. While strong in his convictions and bold in the advocacy of what he believed to be right, it was without bitterness and never contentious. In all the relations of life he was upright and steadfast. In his seemingly untimely death this Association, his state and the nation have sustained a loss.



SUMMARY OF PROCEEDINGS  
OF  
STATE BAR ASSOCIATIONS

*During the Year Ending August 1, 1901.*

ALABAMA STATE BAR ASSOCIATION.

The twenty-fourth annual meeting of this Association was held on June 28 and 29, 1901, at Montgomery.

The Committee on Legislation, to which is committed the duty of preparing bills for introduction into the legislature, made no report this year for the reason, as stated by the Committee, that the Constitutional Convention was in session, and it was thought advisable not to make any report.

Governor Thos. G. Jones, President of the Association, in his address pointed out the noteworthy changes in statute law made by the several states and by Congress during the preceding year. Hilary A. Herbert, of Washington, D. C., delivered the Annual Address on "The Duties and Responsibilities of the American Lawyer in the Twentieth Century."

Papers were read by F. G. Caffey on "The Annexation of West Florida to Alabama"; by Lawrence Cooper on "The Makers of the Law"; by T. M. Owen on "Ephraim Kirby, First Superior Court Judge in what is now Alabama."

BAR ASSOCIATION OF ARIZONA.

The Secretary reports that there were no features of the meeting outside of routine work.

BAR ASSOCIATION OF ARKANSAS.

The annual meeting was held at Hot Springs on May 21 and 22, 1901. Upon the recommendation of the Judiciary Committee it was resolved to take some action to require more

searching inquiry into the moral and educational qualifications of applicants to practice law and for the suspension or disbarment of attorneys guilty of improper conduct. The Association adopted a resolution calling the attention of Congress to the glaring defect in the bankruptcy law under which a person once adjudged a bankrupt may apply within a short time thereafter for another adjudication and discharge from debts, and repeat this process *ad libitum* without being required at any second, third or subsequent bankruptcy to pay any given proportion of his debts.

Joseph M. Hill delivered a short address upon the life and labors of the late Chief Justice Sterling R. Cockrill, who was, at the time of his death, the President of the Association.

Papers were read by W. S. McCain, of Little Rock, on "Ought Punishment for Crimes to be Abolished"; by Ashley Cockrill, of Little Rock, on "History and Evils of Anti-Trust Fire Insurance Legislation"; by W. H. Arnold, of Texarkana, on "Disqualification of Judges in certain Cases"; by George B. Rose, of Little Rock, on "Literature and the Bar"; by E. W. Winfield, of Little Rock, on "Some Excellencies of the late Chief Justice Cockrill."

#### COLORADO BAR ASSOCIATION.

This Association was organized in 1897. During the past year its Committee on Legal Education appeared before the Supreme Court of the state and called attention to the recommendation of the American Bar Association concerning the period of study required for admission to the bar, with the result that the period required has been increased from two to three years. Prior to this time, and for the purpose of aiding in the movement for law reform, this Association requested the Supreme Court to require applicants for admission to the bar to possess the equivalent of a high school education, which request was very promptly granted. It also requested the Supreme Court to provide for a State Board of Law Examin-

ers, by whom all examinations should be conducted, in Denver, which recommendation was also carried into effect.

Upon the further suggestion of the Association the Supreme Court adopted more stringent rules respecting the admission of attorneys licensed in other states, the practice having been to admit them upon mere motion.

At the last session of the legislature the Association caused to be prepared and presented a bill providing for the abolition of the present intermediate court known as the "Court of Appeals" and the increase of the number of judges of the Supreme Court from three to seven, making the latter the only appellate court and increasing the term of service of the judges of that court from nine to fourteen years. Though the bill did not become a law, there was no positive objection manifested to it, excepting as to the term of office proposed. It is probable that, with some modifications, it may become a law at the next session of the legislature.

A bill has also been prepared providing for the election of judicial officers at some time other than at general elections, which it is the purpose of the Association to present at some future time.

The report of the Grievance Committee for the past year shows that upon its initiative five members of the profession have been disbarred, prosecutions have been authorized in six cases and refused in five and that prosecutions are now pending in seven cases. Since its organization the Association has been the means of securing the disbarment of eleven members of the profession. In all cases in which a final judgment has been entered the proceedings caused to be initiated by the Association have been successful. The Association has uniformly been the relator and the prosecutions have been conducted by members of the Association without compensation.

February, 4, 1901, was observed as John Marshall Day by a meeting held at the capitol in Denver, at which the following addresses were delivered: "Private Life and Character of John Marshall," by Charles N. Potter, Chief Justice of Wyo-

ming; "Judicial and Other Public Services of John Marshall," by Julius C. Gunter, of Trinidad, Colorado.

The annual meeting of the Association for the year 1901 was held at Manitou on July 9 and 10, 1901, at which addresses were delivered as follows: The President's address, by Moses Hallett, Judge of the United States District Court for the District of Colorado; "The Manner of the Romans," by Sylvester S. Downer, of Boulder; "Some Kinks of the Law," by Walter G. Withers, of Cripple Creek; "Alexander Hamilton," by Charles W. Waterman, of Denver; "The Case Between Jefferson and Marshall," by U. M. Rose, of Little Rock.

#### STATE BAR ASSOCIATION OF CONNECTICUT.

No meeting during the year.

#### DELAWARE STATE BAR ASSOCIATION.

The Association was organized March 16, 1901. No detailed report of proceedings has been received.

#### BAR ASSOCIATION OF DISTRICT OF COLUMBIA.

No report received.

#### GEORGIA BAR ASSOCIATION.

The Association held its eighteenth annual meeting at Warm Springs on July 3-5, 1901. The most important matters considered were the report of the Committee on Legal Education and Admission to the Bar, requiring that all applicants for admission should take the examination prescribed by the Board of Legal Examiners, except the graduates of law schools in the state having a two years' course and a curriculum approved by the Board of Examiners. Heretofore the graduates of any licensed law school in the state have been admitted upon diploma. A report by the Committee on Judicial Administration suggested a comprehensive reorganization of the

courts of the state so as to bring them into greater harmony and a limitation of the right of appeal to the Supreme Court in small cases. This report, together with the recommendation of the Committee on Interstate Laws for the passage of the Negotiable Instruments Act and the Uniform Divorce Act as recommended by the Commissioners on Uniform State Laws, have been made the special order for the next ensuing meeting.

The annual address was delivered by the President, H. Warner Hill, on "Historic Landmarks of the Law."

Papers were read by Reuben R. Arnold, of Atlanta, on "Delays and Technicalities in the Administration of Justice"; by J. C. C. Black, of Augusta, on "Law and Lawyers"; by W. A. Wimbish, of Columbus, on "Ancillary Jurisdiction of the Federal Courts"; by Jos. Hansel Merrill, of Thomasville, on "The Bible in the Lawyer's Library"; by Roland Ellis, of Macon, on "Criticism of the Courts"; by Shepard Bryan, of Atlanta, on "The Defects of the Law of Georgia Regulating Private Corporations"; by C. A. Turner, of Macon, on "The Six Characters in the Trial of Causes"; by Mrs. J. Render Terrell, of Greenville, on "The Georgia Lawyer as Viewed by a Woman"; by William L. Scruggs, of Atlanta, on "The Evolution of American Citizenship"; by Lucius Q. C. Lamar, of Georgia, Counsel of the United States military government in Cuba, on "The Development and Present Status of the Law in Cuba"; by Sylvanus Morris, of Athens, on "Pleading"; by Walter G. Charlton, of Savannah, on "A Lawyerless Court"; by A. P. Persons, of Tolbotton, on "Public Opinion of the Law and of Lawyers."

A symposium of six papers on "Justice Courts."

Reports were also presented by the Committee on Legal Ethics, the Committee on Jurisprudence and Law Reform and the Committee on Interstate Law.

The meeting of the Association was the largest in its history and more interest in the work was manifested than ever before.

## ILLINOIS STATE BAR ASSOCIATION.

The twenty-fifth annual meeting was held at Chicago on July 11 and 12, 1901. The President's Annual Address was delivered by Jesse Holdom. Papers were read by Hampton L. Carson, of Philadelphia, on "An Illustration of the Evolution of National Authority"; by John S. Stevens, of Peoria, on "The Character and Trial of Aaron Burr"; by Horace Kent Tenney, of Chicago, on "A Rule of Law Which is a Credit to the Bar"; by John H. S. Lee, of Chicago, on "The Right of Privacy"; by J. Nick Perrin, of Lebanon, on "Primitive Justice in Illinois."

Reports were presented by the Committee on Law Reform and the Committee on Increase of the Federal Judiciary for the Seventh Circuit.

Some discussion was had as to the necessity for a new constitution for the State of Illinois; the matter was referred to a committee.

Appended to the report is an account of the celebration of John Marshall Day by this Association on February 5, 1901, at which the principal oration was made by Senator William Lindsay, of Kentucky.

## STATE BAR ASSOCIATION OF INDIANA.

The fifth annual meeting was held at Indianapolis on February 4, 1901. The President's Address was delivered by E. P. Hammond on "Evidence." An oration was made by William A. Ketcham, of Indianapolis, on "Chief Justice Marshall."

## IOWA STATE BAR ASSOCIATION.

The seventh annual meeting was held at Council Bluffs on July 16 and 17, 1901. The Committee on Law Reform recommended a number of changes; among these the following were approved: The increase of salary of Supreme Court and District Judges; that the Supreme Judges should make Des

Moines their permanent place of residence; that there should be but one term of the Supreme Court—beginning in September and ending in June—and the adoption of a primary election law.

Papers were read as follows: By Charles A. Clark on "The Law Reformer"; by J. C. Mabry on "Supreme and District Judges' Salaries"; by J. J. McCarthy on "Perjury and Judicial Proceedings"; the Annual Address, by Smith McPherson, on "The Insular Cases"; by E. M. Carr on "Insanity as a Defense to Crime."

#### BAR ASSOCIATION OF THE STATE OF KANSAS.

The eighteenth annual meeting was held at Topeka, on January 31 and February 1, 1901. The evening of January 31 was devoted to John Marshall Day.

A resolution was presented by the Committee on Legal Education in regard to increase of the law course from two to three years and increased requirement for admission. The President's Annual Address was delivered by Sam Kimball, of Manhattan. Papers were read as follows: By Peyton Carter, of Solomon City, on "The Doctrine of *Locus Pœnitentiæ*"; by L. H. Perkins, of Lawrence, on "Corporal Punishment for Crime"; by H. C. Sluss, of Wichita, on John Marshall"; by John D. Milliken, of McPherson, on "The Early Days of Marshall"; by Edwin W. Cunningham, of Emporia, Kansas, on "Marshall as the Expounder of the Constitution"; by J. D. McFarland, of Topeka, on "The Common Law in Kansas"; by Frank Wells, of Seneca, on "Unanimity Verdicts"; by N. L. Bowman, of Garnett, on "Divorce"; by Thomas B. Wall, of Wichita, on "The Bankruptcy Act of 1898".

#### KENTUCKY BAR ASSOCIATION.

No report received.

## LOUISIANA BAR ASSOCIATION.

A meeting was held at New Orleans in April, 1901. The President's Address was delivered by Henry P. Dart, of New Orleans. Papers were read by Benjamin F. Jones on "The Louisiana Bar during the Re-construction Period." The report contains the address of J. P. Blair before the Association on John Marshall Day, February 4, 1901.

## MAINE STATE BAR ASSOCIATION.

The tenth annual meeting was held at Augusta on February 4, 1901. The Annual Address was delivered by the President, Wallace H. White, on "John Marshall." An address was made by William L. Putnam, United States Circuit Judge of the First District, on "Life and Character of John Marshall."

## MARYLAND STATE BAR ASSOCIATION.

The sixth annual meeting was held at Deer Park, Maryland, on July 31 and August 1, 1901. The President's Address was delivered by Stevenson A. Williams, of Belair.

The most important committee report was that of the Committee on Judicial Administration and Legal Reform on "A Proposed Code of Legal Ethics." Papers were read as follows: By Alfred S. Niles, of Baltimore, on "Where the Law Fails"; by James W. Owens, of Annapolis, on "Legislation, Its Errors and Needed Reforms"; by Henry C. Niles, of York, Pennsylvania, on "Priests of the Temple"; by Alexander Armstrong, on "A Permanent Law Reform Association for Maryland." John Marshall Day was observed on February 4, 1901. Addresses were made by W. Strother Jones, Charles J. Bonaparte and William Pinkney Whyte.

## MICHIGAN STATE BAR ASSOCIATION.

The Committee on Legislation and Law Reform presented to the Association at its 1901 meeting a report favoring the



abolishment of the system of compensating justices of the peace by fees. This report was adopted and the matter was re-committed to the Committee with instructions to prepare a bill embodying its recommendations, and that the matter be brought before the legislature of 1903 for action.

The committee reported in favor of the establishment of an intermediate court of appeals to consist of three judges to have jurisdiction over civil cases involving not more than \$1000, on writ of error and appeal, and in such case its judgment to be final except where the supreme court should, upon application, allow a further appeal to itself. The Association re-committed the matter to the committee with instructions to prepare a resolution providing for a constitutional amendment creating an intermediate court of appeals, and also a bill creating such court, the same to be reported to the next meeting.

The Committee on Legislation and Law Reform also recommended that the Association endorse the principle of the Torrens System of land title registration, and request the legislature to take action for its adoption. This matter was re-committed to the committee with instructions to make further report at the next meeting, together with a draft of a bill.

The Special Committee on Expert Testimony requested further time for the study of the subject, and the same was granted. It is expected that this committee will report a draft of a bill regulating the subject of expert testimony and its production in court at the next meeting.

There were no addresses read before the Association.

#### MINNESOTA STATE BAR ASSOCIATION.

The first annual meeting of the reorganized state Association was held at St. Paul on January 9, 1901.

A committee was appointed to prepare and urge before the legislature the passage of an act for the revision of the general laws of the state, which would be the first revision since 1866. Also to secure, if possible, the passage of a "Negotiable Instruments Act" as well as the other bills recommended by the

committee of the American Bar Association. It was successful in securing the passage of the first named measure and the statutes are now being revised. Certain features of the Negotiable Instruments Act were deemed to render possible the scheme of swindlers who operated very extensively in this part of the country several years ago by securing the signatures of farmers to documents which appeared to be receipts for machinery, but, upon being "carved," resulted in straight promissory notes. When the matter was finally considered, sufficient time was not allowed to overcome this objection, but it is expected that with slight amendment the next legislature will adopt the act.

The committee was directed to advocate certain other measures simplifying and lessening the expense of appeals to the Supreme Court by allowing the transmission there of the original record instead of requiring a certified copy by the clerk of the trial court. The committee encountered opposition, however, which defeated the proposed action for the present.

#### MISSOURI BAR ASSOCIATION.

The nineteenth annual meeting of the Missouri Bar Association was held in St. Louis on February 14 and 15, 1901. The report of the Committee on Legal Education and Admission to the Bar recommended the raising of the standard of general scholarship on the part of applicants—a course of three years study and a State Examining Board. It also referred favorably to the requirements of the Association of American Law Schools. The special committee upon the same subject reported a bill providing for state examiners and rules of admission. After considerable discussion both reports were adopted. The Committee on John Marshall Day reported that a celebration had been had on February 4, 1901, at St. Louis and at Kansas City.

The President's Address was made by J. J. Russell, of Charleston, giving a summary of legislation during the past year. The Annual Address was made by J. H. Lionberger,

of St. Louis, on "Expansion and the Constitution." Papers were read by Clarence S. Palmer on "The Model City Charter"; by Charles Claflin Allen on "The Legal Status of Trusts."

#### MONTANA STATE BAR ASSOCIATION.

John Marshall Day was celebrated at Helena by a meeting of the Association, at which an address was made by Charles R. Leonard, of Butte, President of the Association.

#### NEBRASKA STATE BAR ASSOCIATION.

This Association held its annual meeting at Lincoln, on January 2, 1901. The meeting was principally a business one, having for its object the drafting of bills to provide relief of the supreme court from the congested condition of its docket, and also recommending certain modifications in the statutes with respect to procedure. Bills were prepared by proper committees and approved by the Association and most of them have been enacted into law.

#### BAR ASSOCIATION OF THE STATE OF NEW HAMPSHIRE.

The meeting this year was a celebration of John Marshall Day, held at Manchester, on February 4, 1901. Addresses were delivered by George B. French, of Nashua, President of the Association; Jeremiah Smith, of Cambridge, Massachusetts; by Edgar Aldrich, of Littleton, on "John Marshall as a Soldier"; by Robert M. Wallace, of Millford, on "The Associates of John Marshall."

#### NEW JERSEY STATE BAR ASSOCIATION.

The year's work has been devoted to an attempt to amend that part of the constitution of the the state which relates to the judiciary. At the June meeting, held at Atlantic City, Eugene Stevenson, the retiring President, delivered an address on "The Relation of Our Nation to its Dependencies;"

Hampton L. Carson, of the Philadelphia Bar, spoke on "A Legal View of the Question : Why am I Obligated to Keep my Word."

#### NEW MEXICO BAR ASSOCIATION.

The regular meeting was held on January 9, 1901, at Sante Fé. A memorial to Congress, prepared by the Committee on Legal Reform, was adopted, recommending the improvement of the act to establish a Circuit Court of Appeals so as to give that court more extensive appellate jurisdiction over the courts of the territories.

On February 4, 1901, John Marshall Day was celebrated by a meeting at which addresses were made by Chief Justice W. J. Mills, Frank Springer, of Las Vegas, B. M. Reed and E. A. Fiske, President of the Association.

#### NEW YORK STATE BAR ASSOCIATION.

The twenty-fourth annual meeting of this Association was held at Albany, on January 15 and 16, 1901. A report was presented by the Committee on Law Reform, approving of the plan of statutory and code revision, adopted by the joint committee of the legislature of 1900, and recommending postponement of action on bills presented by the Statutory Revision Commission.

The annual address by President Francis M. Finch was on "Legal Education." On January 15, 1901, the Annual Address was delivered by the Chinese Minister, Wu-Ting-Fang, upon "Chinese Jurisprudence." During the meeting the following papers were read :

"The Use and Abuse of Corporations," by Walter S. Logan, of New York ; "State Control of the Police," by Charles P. Norton, of Buffalo ; "The Constitution and Our Possessions : An Answer to Ex-President Harrison," by Charles A. Gardiner, of New York ; "The New Constitution of the United States," by John H. Hopkins, of Rochester ; "The International Court of Arbitration at The Hague," by Frederick W. Holls, of

New York; "Divorce," by Rt. Rev. William Croswell Doane, of Albany; "Revision of the General Laws and Code of Procedure," by A. J. Rodenback.

John Marshall Day was celebrated at Albany on February 4, 1901, in conjunction with the Bar Association of the City of New York. Addresses were made by William B. Hornblower, President of the New York State Bar Association, and by Chief Judge Alton B. Parker, and an oration by John F. Dillon.

#### NORTH CAROLINA BAR ASSOCIATION.

This Association met at Wrightsville Beach on June 26, 27 and 28, 1901. The Annual Address was delivered by Charles M. Blackford, of Lynchburg. An address was read by Charles M. Stedman, of Greensboro, President of the Association, on "The Lawyer," and papers by James H. Pou, of Raleigh, on "Taxation of Private Corporations;" by Hamilton C. Jones, on "Traditions and Recollections of the Bench and Bar of North Carolina."

#### BAR ASSOCIATION OF NORTH DAKOTA.

The Association met in September, 1900, at Grand Forks. During the past year it has recommended some important legislation, especially legislation relating to trial on appeal to the Supreme Court of court cases. The legislation recommended was that in all court cases tried in the District Court, all the evidence offered by either party should be received, but in the Supreme Court all incompetent and irrelevant evidence that is properly objected to should not be considered, and the Supreme Court shall try anew all court cases. The Association has also adopted rules of procedure relating to disbarment proceedings.

#### OHIO STATE BAR ASSOCIATION.

No report received.

## OREGON BAR ASSOCIATION.

The principal work for the past year has been an attempt to secure certain needed legislation recommended by the last meeting of the Association, which was partially successful; the celebration generally throughout the state of John Marshall Day, and the work of the Grievance Committee and Committee on Legal Education and Admission to the Bar.

The subjects of the papers read at the last meeting of the Association were as follows:

President Lionell R. Webster's Address, "The Duty of the Lawyer in Influencing Legislation;" E. R. Skipworth, "Two Views;" B. S. Crosscup, of Tacoma, "Some Observations on the Jury System;" S. B. Haston, "Suggestions on Needed Legislation and some Curiosities in Our Present Laws"; Thomas G. Greene, "A Review of the Bankruptcy Law and Some Leading Cases which have Arisen Thereunder."

During the last days of the recent session of the legislature a question of importance as to the jurisdiction of justice courts came up before a special meeting of the Association, and, as it was apparent that no relief would be given without immediate affirmative action on its part, fifty of the leading members of the Association volunteered to go to the Capitol, and thus, by a united effort, secured the relief desired.

## PENNSYLVANIA BAR ASSOCIATION.

The seventh annual meeting was held at Bedford Springs on June 25, 1901. Acts recommended by the Association have been passed by the legislature relating to insolvency and assignments for the benefit of creditors: Liens for taxes and municipal improvements and removal of nuisances, defining the rights and liabilities of parties to contracts for labor and materials, relating to service of process in actions at law and providing who shall be parties to certain writs, relating to actions of ejectment, and the act known as the "Negotiable Instruments Act."

The passage of this large body of most important legislation recommended by the State Bar Association is said to be of great importance to the administration of the law and to be further important as showing the value of a large and active state Association having the confidence of the legislature.

The Committee on Law Reform presented a very comprehensive act relating to the incorporation of boroughs and also an act with reference to purchasers of real estate at judicial sales.

The Committee on Admissions to the Bar reported that a memorial had been presented to the Supreme Court recommending the appointment of a State Board of Examiners and the adoption of rules regulating admissions.

The Annual Address was delivered by U. M. Rose, of Arkansas, on "The Rise of Constitutional Law." Papers were read as follows: "William Morris Meredith," by Richard L. Ashhurst, of Philadelphia; "Law and Letters, or Some Reflections on the Relations of Our Profession to Literature," by S. W. Dana, of New Castle.

#### RHODE ISLAND BAR ASSOCIATION.

The Association held its third annual meeting in Providence on December 8, 1900. A picture of former Chief Justice Matteson was presented to the state by the Association and accepted, on behalf of the state, by Governor Gregory. Chief Justice Stiness spoke upon the character and public service of Judge Matteson.

On February 4, 1901, the Rhode Island Bar Association and Brown University joined in the celebration of John Marshall Day. The opening address was made by the President, Francis Colwell, after which an address upon the life, character and public service of John Marshall was delivered by Judge LeBaron B. Colt, of the United States Circuit Court.

On March 27, 1901, a stated meeting of the Association was held in Providence. An introductory address was delivered by President Francis Colwell, after which William A.

Morgan addressed the Association on "Ethics of the Bench and Bar."

Although the influence of the Association has been felt in legislature, it has taken no directly affirmative action thereon during the past year.

#### SOUTH CAROLINA BAR ASSOCIATION.

The Association held no meeting during the past year.

#### SOUTH DAKOTA BAR ASSOCIATION.

The meeting of February, 1901, was held at Pierre, and while the legislature was in session. An active interest was taken in the bill to revise and codify the laws of the state; there has been no revision since 1877. A committee was appointed to urge the bill, and Chapter 183 of the Session Laws of 1901, being "An Act to provide for Revising and Codifying the Laws of the State," etc., is due largely to the efforts made by the Association through its individual members and its regularly appointed committee.

The meeting had in hand the observance of John Marshall Day, and an address on John Marshall was delivered by Bartlett Tripp, of Yankton, before the Association and the members of the Legislature, Judges of the Supreme Court and state officials.

The former President of the Association, Edwin A. Van Cise, having removed from the state to Denver, the President's address was delivered by C. H. Dillon, of Yankton, Vice-President of the Association. Mr. Dillon's subject was not announced but his theme was law reform, or needed reforms. The subject was treated largely from the standpoint of needed uniformity on many subjects in the legislation of the several states.

#### BAR ASSOCIATION OF TENNESSEE.

The twentieth annual meeting of this Association was held at Memphis, on the 10th, 11th and 12th of July, 1901. The



meeting was more largely attended and more general interest was manifested than at any former meeting. The passage by the legislature of the Negotiable Instruments Act was secured, and also, through the influence of this Association, a reform in the system of selecting jurors.

The papers read were as follows: Annual address of the President, George Gillham, of Memphis; address by Charles Noble Gregory, of the University of Iowa, on "Sir Samuel Romilly and Criminal Law Reform;" by A. S. Colyar, on "Incidents and Anecdotes in the Life of Andrew Jackson;" by J. H. Henderson, of Franklin, on "The Twentieth Century Lawyer;" by W. G. M. Thomas, of Chattanooga, on "Tennessee and the Election Laws;" by Albert W. Biggs, of Trenton, on "John Somers;" by E. B. Wilson, of Nashville, on "The Tennessee Bar Association and the State Legislature."

On February 4, 1901, the Association celebrated at Nashville John Marshall Day. The opening address was delivered by President George Gillham, and the oration of the day by United States Circuit Judge H. H. Lurton.

#### TEXAS BAR ASSOCIATION.

The twentieth annual meeting of the Association was held at Galveston on July 31, and August 1, 1901. The report of the Committee on Judicial Administration and Remedial Procedure recommended the trial of caveats to wills immediately before the higher courts, and that the Governor, where the District Judge is disqualified, should have power to appoint an attorney as special judge to try the case, in preference to the existing system of exchange of courts by judges in different districts, both of which were approved.

A bill appointing a State Board of Legal Examiners and providing regulations for admission to the bar, which has passed one branch of the legislature, was read to the Association, and a resolution was passed requesting the Governor to call the attention of the legislature to the necessity for legislating on the subject.

The Committee on Commercial Law submitted a report on the question of uniformity of state laws, giving some history of the subject and discussing in detail the Negotiable Instruments Act; the transfer of stock in corporations; divorce; acknowledgments and execution of written instruments; weights and measures; seals; and wills.

An address was delivered by the President, M. A. Spoonts, of Fort Worth. Papers were read by John B. Tod, of Houston, on "Recent Noteworthy Decisions of the Texas Courts;" and by Norman G. Kittrell, of Houston, on "The Barker Case."

#### STATE BAR ASSOCIATION OF UTAH.

No meeting of this Association was held during the year.

#### VERMONT BAR ASSOCIATION.

This Association meets in October of each year. No report was received of the meeting of October, 1900. The Association has done a great deal in elevating the requirements of applicants for admission to the bar, and directly conducts the examinations for the Supreme Court.

#### VIRGINIA STATE BAR ASSOCIATION.

John Marshall Day was celebrated on March 4, 1901, under the auspices of the Association and the Bar Association of the City of Richmond. An address was delivered by Mr. Justice Horace Gray of the Supreme Court of the United States.

The annual meeting took place on August 6, 7 and 8, at White Sulphur Springs, where the following papers were read: "Some Notable Cases in the Supreme Court of the United States," by Lunsford L. Lewis, President; "The Power of the State Legislature," by S. S. P. Patteson, of Richmond; "Lights and Shadows of the Law," by Joseph L. Kelly, of Bristol; "Criminals and Their Treatment," by Charles Curry, of Staunton; "Virginia and the Torrens System," by Eugene C. Massie, of Richmond.

The State of Virginia, being in the midst of a constitutional revision, the attention of the members of the Bar Association has been largely directed to the legislation in connection therewith. The Negotiable Instruments Act was enacted by the legislature of 1897 and 1898. The report of proceedings of this Association contains a Code of Legal Ethics adopted in 1889.

#### WASHINGTON STATE BAR ASSOCIATION.

The thirteenth annual meeting of the Association was held at Spokane on July 9, 10 and 11, 1901. An address was delivered by the President, S. R. Stern, of Spokane. Papers were read by A. G. Kellam, on "The Trust Fund Theory of Corporation Assets;" by T. O. Abbott, of Tacoma, on "Advantages of the Torrens System of Conveyancing;" by E. G. Kreider, of Olympia, on "Law Reporting," and by Joseph Shippen, of Seattle, on "The Insular Cases."

#### WEST VIRGINIA BAR ASSOCIATION.

The sixteenth annual meeting of the West Virginia Bar Association was held at Parkersburg on February 4 and 5, 1901. The President's Address was delivered by W. Mollohan on "This Association: Its Work, Past and Prospective." Papers were read by C. C. Higginbotham, on "Shall the State Have a New Constitution?"; by James F. Brown, of Charleston, on "West Virginia Land Titles."

#### STATE BAR ASSOCIATION OF WISCONSIN.

No report has been received.

NOTE.—This brief summary of the work of the State Bar Associations has been made by the Secretary of the American Bar Association from answers to letters and from a somewhat superficial examination of such reports of the State Associations as could be procured. It is now attempted for the first time and is largely tentative. An effort will be made in succeeding reports to secure more uniformity in summarizing these proceedings.

## LIST OF BAR ASSOCIATIONS IN THE UNITED STATES.

**NOTE.**—This list has been compiled by the Secretary of the American Bar Association from replies to circulars sent out. While pains have been taken to make it as complete as possible, it is probable that some Associations have been omitted. All Associations which are purely Library Associations are intended to be omitted. In some cases the officers for former years are given where officers for 1901 are not known.

The Secretary will be much indebted for information of any omissions and for corrections of the names of officers.

### ALABAMA.

NAME.	PRESIDENT.	SECRETARY.
Alabama State Bar Association.	E. L. Russell, Mobile.	Alex. Troy, Montgomery.
BIRMINGHAM BAR ASSO- CIATION.	John London, Birmingham.	L. J. Haley, Jr., Birmingham.

### ARIZONA.

The Bar Association of Arizona.	Frank Cox, Prescott.	H. M. Willis, Phoenix.
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### ARKANSAS.

Bar Association of Arkansas.	Thomas B. Martin, Little Rock.	J. F. Loughborough, Little Rock.
FORT SMITH BAR ASSO- CIATION.	James F. Read, Fort Smith.	L. P. Miles, Fort Smith.

### CALIFORNIA.

LOS ANGELES BAR ASSO- CIATION.	Lucien Shaw, Los Angeles.	Charles Wellborn, Los Angeles.
OAKLAND BAR ASSOCIA- TION.	J. H. Smith, Oakland.	Geo. E. DeGolia, Oakland.

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CALIFORNIA—Continued.

NAME.	PRESIDENT.	SECRETARY.
SACRAMENTO BAR ASSOCIATION.	Grove L. Johnson, Sacramento.	S. Luke Howe, Sacramento.
BAR ASSOCIATION OF SAN DIEGO.	Eugene Daney, San Diego.	Frederic W. Stearns, San Diego.
BAR ASSOCIATION OF SAN FRANCISCO.	Warren Olney, San Francisco.	George J. Martin, San Francisco.

COLORADO.

Colorado Bar Association.	Platt Rogers, Denver.	Lucius W. Hoyt, Denver.
DENVER BAR ASSOCIATION.	Hugh Butler, Denver.	James M. Lomery, Denver.
GILPIN COUNTY BAR ASSOCIATION.	Clayton F. Becker, (1900) Central City.	J. D. Hurd (1900), Central City.
TELLER COUNTY BAR ASSOCIATION.	Charles C. Butler, Cripple Creek.	L. G. Campbell, Cripple Creek.

CONNECTICUT.

State Bar Association of Connecticut.	Charles E. Perkins, Hartford.	Chas. M. Joslyn, Hartford.
BRIDGEPORT BAR ASSOCIATION.	George W. Wheeler, Bridgeport.	Wm. H. Kelsey, Bridgeport.
HARTFORD COUNTY BAR ASSOCIATION.	Charles E. Perkins, Hartford.	William F. Henney, Hartford.

DELAWARE.

Delaware State Bar Association.	Benjamin Nields, Wilmington.	T. Bayard Heisel, Wilmington.
KENT COUNTY BAR ASSOCIATION.	Henry R. Johnson, Dover.	A. M. Daly, Dover.

## DELAWARE—Continued.

NAME.	PRESIDENT.	SECRETARY.
BAR ASSOCIATION OF NEW CASTLE COUNTY.	Herbert H. Ward, Wilmington.	David J. Reinhardt, Wilmington.
BAR ASSOCIATION OF SUSSEX COUNTY.	Charles F. Richards, Georgetown.	Albert F. Polk, Georgetown.

## DISTRICT OF COLUMBIA.

Bar Association of the District of Columbia.	Chapin Brown, Washington.	Percival M. Brown, Washington.
FEDERAL BAR ASSOCIA- TION OF D. C.	John W. Douglass, Washington.	George A. King, Washington.
PATENT LAW ASSOCIA- TION OF WASHINGTON.	Wm. Cranch McIntire, Washington.	Arthur P. Greeley, Washington.

## FLORIDA.

HILLSBOROUGH COUNTY BAR ASSOCIATION	H. L. Mitchell, Tampa.	M. Henry Cohen, Tampa.
JACKSONVILLE BAR AS- SOCIATION.	Charles M. Cooper, Jacksonville.	Walter B. Clarkson, Jacksonville.
KEY WEST BAR ASSO- CIATION.	L. W. Bethel, Key West.	Julius Otto, Key West.
MARIANNA BAR ASSOCIA- TION.	W. H. Milton, Marianna.	J. C. McKinnon, Marianna.

## GEORGIA.

Georgia Bar Asso- ciation.	C. E. Battle, Columbus.	Orville A. Park, Macon.
ATLANTA BAR ASSOCIA- TION.	Jno. L. Hopkins, Atlanta.	William P. Hill, Atlanta.
AUGUSTA BAR ASSOCIA- TION.	J. C. C. Block, Augusta.	D. G. Fogarty, Augusta.
BAR ASSOCIATION OF CITY OF MACON.	Washington Dessan, Macon.	Andrew W. Lane, Macon.

## ILLINOIS.

NAME.	PRESIDENT.	SECRETARY.
<b>Illinois State Bar Association.</b>	John S. Stevens, Peoria.	James H. Matheny, Springfield.
<b>CHICAGO BAR ASSOCIATION.</b>	John S. Miller, Chicago.	M. Lester Coffeen, Chicago.
<b>CHICAGO LAW INSTITUTE.</b>	William Brace, Chicago.	Alfred E. Barr, Chicago.
<b>STATES ATTORNEYS ASSOCIATION OF ILLINOIS.</b>	A. L. Anderson, Lincoln.	William V. Taft, Peoria.
<b>THE ILLINOIS COUNTY AND PROBATE JUDGES ASSOCIATION.</b>	Orren N. Carter, Chicago.	M. W. Thompson, Danville.
<b>THE LAW CLUB OF THE CITY OF CHICAGO.</b>	Harrison Musgrave, Chicago.	Victor Etting, Chicago.
<b>THE PATENT LAW ASSOCIATION.</b>	Lewis L. Colburn, Chicago.	Otto R. Barnett, Chicago.
<b>VERMILLION COUNTY BAR ASSOCIATION.</b>	M. W. Thompson, Danville.	J. W. Keeslar, Danville.

## INDIANA.

<b>State Bar Association of Indiana.</b>	Theodore P. Davis, Noblesville.	Merrill Moores, Indianapolis.
<b>ADAMS COUNTY BAR ASSOCIATION.</b>	Robert S. Peterson, Decatur.	Clark J. Lutz, Decatur.
<b>CLAY COUNTY BAR ASSOCIATION.</b>	George A. Knight, Brazil.	John M. Rawley, Brazil.
<b>CLINTON COUNTY BAR ASSOCIATION.</b>	Charles G. Guenther, Frankfort.	James T. Hockman, Frankfort.
<b>DANVILLE BAR ASSOCIATION.</b>	Thaddeus S. Adams, Danville.	Roscoe C. Pennington, Lebanon.

## INDIANA—Continued.

NAME.	PRESIDENT.	SECRETARY.
DEARBORN COUNTY BAR ASSOCIATION.	Wm. R. Johnston, Lawrenceburg.	Warren H. Hauck, Lawrenceburg.
DEKALE COUNTY BAR ASSOCIATION.	Don A. Garwood, Auburn.	Charles M. Brown, Auburn.
ELKHART COUNTY BAR ASSOCIATION.	James S. Dodge. Elkhart.	Louis A. Dennert, Goshen.
EVANSVILLE BAR ASSOCIATION.	Alexander Gilchrist, Evansville.	Philip W. Frey, Evansville.
GRANT COUNTY BAR ASSOCIATION.	Henry J. Paulus, Marion.	Marshall Williams, Marion.
HAMILTON COUNTY BAR ASSOCIATION	John F. Neal, Noblesville.	Meade Vestal, Noblesville.
HOWARD COUNTY BAR ASSOCIATION.	Benjamin F. Harness, Kokomo.	C. O. Wellits, Kokomo.
INDIANAPOLIS BAR ASSOCIATION.	Ovid B. Jameson, Indianapolis.	Ernest R. Keith, Indianapolis.
JAY COUNTY BAR ASSOCIATION.	David. T. Taylor, Portland.	George W. Bergman, Portland.
LAKE COUNTY BAR ASSOCIATION.	Armanis F. Knotts, Hammond.	John G. Erdlitz, Whiting.
MADISON COUNTY BAR ASSOCIATION.	Howell D. Thompson, Anderson.	Edward D. Reardon, Anderson.
MARTINSVILLE BAR ASSOCIATION.	James V. Mitchell, Martinsville.	E. Forest Branch, Martinsville.
PUTNAM COUNTY BAR ASSOCIATION.	Delana E. Williamson, Greencastle.	Smith Matson, Greencastle.
SHELBY COUNTY BAR ASSOCIATION.	Harry C. Morrison, Shelbyville.	George H. Meiks, Shelbyville.



## INDIANA—Continued.

NAME.	PRESIDENT.	SECRETARY.
STARKE COUNTY BAR ASSOCIATION.	James W. Nichols, Knox.	Charles C. Kelley, Knox.
THIRTY-FIFTH JUDICIAL CIRCUIT BAR ASSOCIATION.	Frank S. Roby, Angola.	Willis Rhoads, Angola.
VERMILION COUNTY BAR ASSOCIATION.	Martin G. Rhoads, Newport.	F. F. James, Newport.
WABASH BAR ASSOCIATION.	Alvah Taylor, Wabash.	Oliver H. Bogue, Wabash.

## IOWA.

Iowa State Bar Association.	J. H. McCnologue, Mason City.	Sam S. Wright, Tipton.
BLACKHAWK COUNTY BAR ASSOCIATION.	W. H. McClure, Cedar Falls.	J. S. Tuthill, Waterloo.
BOONE COUNTY BAR ASSOCIATION.	S. R. Dyer, Boone.	W. W. Goodykoontz, Boone.
CASS COUNTY BAR ASSOCIATION.	John W. Scott, Atlantic.	W. A. Follett, Atlantic.
CEDAR COUNTY BAR ASSOCIATION.	E. M. Brink, (1900) Tipton.	Vacant (1900).
CLARKE COUNTY BAR ASSOCIATION.	M. L. Temple, (1900) Osceola.	H. L. Karr (1900), Osceola.
CLAYTON COUNTY BAR ASSOCIATION.	James O. Crosby, (1900) Garnavillo.	B. W. Newberry, (1900) Garnavillo.
CLINTON COUNTY BAR ASSOCIATION.	J. S. Darling, (1900) Clinton.	J. W. Ellis (1900), Clinton.
DECATUR COUNTY BAR ASSOCIATION.	J. W. Harvey, Leon.	C. W. Hoffman, Leon.
DUBUQUE COUNTY BAR ASSOCIATION.	Glen Brown, Dubuque.	S. B. Lattner, Dubuque.

## LIST OF BAR ASSOCIATIONS

## IOWA—Continued.

NAME.	PRESIDENT.	SECRETARY.
FAIRFIELD LAW LIBRARY ASSOCIATION.	Robert F. Ratcliff, Fairfield.	E. F. Simmons, Fairfield.
HAMILTON COUNTY BAR ASSOCIATION.	N. B. Hyatt, Webster City.	G. F. Tucker, Webster City.
JACKSON COUNTY BAR ASSOCIATION.	D. A. Fletcher, Maquoketa.	D. T. Bauman, Maquoketa.
JASPER COUNTY BAR ASSOCIATION.	O. C. Meredith, Newton.	J. A. Mattern, Newton.
JEFFERSON COUNTY BAR ASSOCIATION.	Ben McCoy, Fairfield.	Frank T. Nash, Fairfield.
JOHNSON COUNTY BAR ASSOCIATION.	Steph. Bradley, Iowa City.	R. P. Howell, Iowa City.
JONES COUNTY BAR ASSO- CIATION.	J. S. Stacy, Anamosa.	W. I. Chamberlain, Wyoming.
KEOKUK COUNTY BAR ASSOCIATION.	H. H. Trimble, (1900) Keokuk.	W. J. Roberts, (1900) Keokuk.
KOSSUTH COUNTY BAR ASSOCIATION.	E. V. Swetting, (1900) Algona.	Charles A. Cohenour, (1900) Algona.
LEE COUNTY BAR ASSO- CIATION.	H. H. Trimble, Keokuk.	Hasen I. Sawyer, Keokuk.
LOUISA COUNTY BAR AS- SOCIATION.	Fred. Courts, Morning Sun.	Oscar Hale, Wapello.
LUCAS COUNTY BAR ASSO- CIATION.	T. M. Stuart, (1900) Chariton.	L. B. Bartholomew, (1900) Chariton.
MAHASKA COUNTY BAR ASSOCIATION.	Ben McCoy, Oskaloosa.	F. T. Nash, Oskaloosa.
MONONA COUNTY BAR ASSOCIATION.	G. W. McMillen, Onawa.	Azariah Kindall, Onawa.

## IOWA—Continued.

NAME.	PRESIDENT.	SECRETARY.
MONROE COUNTY BAR ASSOCIATION.	T. B. Perry, Albia.	D. W. Bates, Albia.
MUSCATINE COUNTY BAR ASSOCIATION.	J. Carekaddan. (1900) Muscatine.	William Hoffman, (1900) Muscatine.
POLK COUNTY BAR ASSOCIATION.	Geo. H. Carr, Des Moines.	J. B. Ryan, Des Moines.
SCOTT COUNTY BAR ASSOCIATION.	E. E. Cook, Davenport.	R. C. Ficke, Davenport.
SHELBY COUNTY BAR ASSOCIATION.	Edmund Lockwood, (1900) Harlan.	Thos. H. Smith, (1900) Harlan.
SIOUX CITY BAR ASSOCIATION.	Craig L. Wright, Sioux City.	J. Herbert Quick, Sioux City.
SIOUX COUNTY BAR ASSOCIATION.	Wm. Hutchinson, (1900) Orange City.	G. W. Pelts (1900), Orange City.
UNION COUNTY BAR ASSOCIATION.	D. W. Higbee, (1900) Creston.	Vacant (1900).
VAN BUREN COUNTY BAR ASSOCIATION.	Alex. Brown, Keosauqua.	J. C. Calhoun. Keosauqua.
WAPELLO COUNTY BAR ASSOCIATION.	E. E. McElroy, (1900) Ottumwa.	Chas. Hall (1900), Ottumwa.
WASHINGTON COUNTY BAR ASSOCIATION.	H. Schofield, Washington.	Vacant.

## KANSAS.

Bar Association of the State of Kansas.	Silas Porter, Kansas City.	D. A. Valentine, Topeka.
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## KENTUCKY.

Kentucky Bar Association.	Malcolm Yeamans, (1900) Henderson.	J. G. Poore, (1900) Frankfort.
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## LOUISIANA.

NAME.	PRESIDENT.	SECRETARY.
Louisiana Bar Association.	Henry P. Dart, New Orleans.	W. S. Benedict, New Orleans.

## MAINE.

Maine State Bar Association.	Wallace H. White, Lewiston.	Leslie C. Cornish, Augusta.
CUMBERLAND BAR ASSOCIATION.	Henry B. Cleaves, Portland.	John F. A. Merrill, Portland.
FRANKLIN COUNTY BAR ASSOCIATION.	Henry L. Whitcomb, Farmington.	B. M. Small, Farmington.
KENNEBEC BAR ASSOCIATION.	L. C. Cornish, Augusta.	C. L. Andrews, Augusta.
OXFORD BAR ASSOCIATION.	Vacant (1900). <sup>a</sup>	C. F. Whitman (1900), S. Paris.
PENOBSCOT BAR ASSOCIATION.	Albert W. Paine, Bangor.	F. H. Appleton, Bangor.
SOMERSET BAR AND LAW LIBRARY ASSOCIATION.	O. R. Bachellor, Skowhegan.	Vacant.
YORK BAR ASSOCIATION.	Horace H. Burbank, Saco.	Gorham N. Weymouth, Biddeford.

## MARYLAND.

Maryland State Bar Association.	John S. Wirt, Elkton.	Conway W. Sams, Baltimore.
BAR ASSOCIATION OF ALLEGANY COUNTY.	William C. Devecmon, Cumberland.	David W. Sloan, Cumberland.
BAR ASSOCIATION OF BALTIMORE CITY.	Daniel M. Thomas, Baltimore.	James W. Bowers, Jr., Baltimore.
BAR ASSOCIATION OF GARRETT COUNTY.	Thos. J. Peddicord, Oakland.	Julius C. Renninger, Oakland.

## MARYLAND—Continued.

NAME.	PRESIDENT.	SECRETARY.
BAR ASSOCIATION OF MONTGOMERY COUNTY.	Hattersly W. Talbott, Rockville.	Phillip D. Laird, Rockville.
BAR ASSOCIATION OF WASHINGTON COUNTY.	Alexander Neill, Hagerstown.	Martin L. Keedy, Hagerstown.

## MASSACHUSETTS.

BAR ASSOCIATION OF THE CITY OF BOSTON.	John C. Gray, Boston.	William F. Wharton, Boston.
BERKSHIRE BAR ASSO- CIATION.	Henry W. Taft, Pittsfield.	Edward T. Slocum, Pittsfield.
ESSEX BAR ASSOCIATION.	Henry P. Moulton, Salem.	Alden P. White, Salem.
FALL RIVER BAR ASSO- CIATION	Milton Reed, Fall River.	Arthur S. Phillips, Fall River.
FRANKLIN COUNTY BAR ASSOCIATION.	Samuel O. Lamb, Greenfield.	Samuel D. Conant, Greenfield.
HAMPDEN BAR ASSO- CIATION.	Charles L. Gardner, Springfield.	Robert O. Morris, Springfield.
HAMPSHIRE BAR ASSO- CIATION.	Timothy G. Spaulding, Northampton.	Wm. H. Clapp, Northampton.
LAWRENCE BAR ASSO- CIATION.	Chas. A. DeCoursey, Lawrence.	Wm. F. Moyes, Lawrence.
LYNN BAR ASSOCIATION.	William H. Niles, Lynn.	Charles Leighton, Lynn.
BAR ASSOCIATION OF THE COUNTY OF MIDDLESEX.	Samuel K. Hamilton, Boston.	Frank M. Forbush, Boston.
NEW BEDFORD BAR ASSOCIATION.	Charles W. Clifford, New Bedford.	Frank A. Milliken, New Bedford.
NEWBURYPORT BAR AS- SOCIATION.	Nathaniel N. Jones, Newburyport.	David P. Page, Newburyport.

## MASSACHUSETTS—Continued.

NAME.	PRESIDENT.	SECRETARY.
BAR ASSOCIATION OF NORFOLK COUNTY.	Oscar A. Marden, Stoughton.	Charles F. Spear, Hyde Park.
PLYMOUTH COUNTY BAR ASSOCIATION.	Benjamin W. Harris, E. Bridgewater.	Arthur Lord, Plymouth.
TAUNTON BAR ASSOCIA- TION.	Henry J. Fuller, Taunton.	Carleton F. Sanford, Taunton.
WORCESTER COUNTY BAR ASSOCIATION.	F. P. Goulding, (1900) Worcester.	Webster Thayer, (1900) Worcester.

## MICHIGAN

Michigan State Bar Association.	M. Norris, Grand Rapids.	W. J. Landman. Grand Rapids.
BAY COUNTY BAR ASSO- CIATION.	Edgar A. Cooley, Ann Arbor.	Frank S. Pratt, Bay City.
DETROIT BAR ASSOCIA- TION.	John C. Donelly, Detroit.	William J. Gray, Detroit.
GRAND RAPIDS BAR AS- SOCIATION.	Thos. J. O'Brien, V. P., Grand Rapids.	Arthur C. Denison, Grand Rapids.
HOUGHTON COUNTY BAR ASSOCIATION.	Thos. L. Chadbourne, Houghton.	William G. Rice, Houghton.
INGHAM COUNTY BAR ASSOCIATION.	Samuel L. Kilbourne, Lansing.	Harry A. Silsbee, Lansing.
IONIA COUNTY BAR AS- SOCIATION.	Allen B. Morse, Ionia.	Wm. K. Clute, Ionia.
JACKSON COUNTY BAR ASSOCIATION.	Eugene Pringle, Jackson.	Wm. K. Sagendorple, Jackson.
LENAWEE COUNTY BAR ASSOCIATION.	Clement E. Weaver, Adrian.	Walter S. Westerman, Adrian.
MUSKEGON COUNTY BAR ASSOCIATION.	Hiram J. Hoyt, Muskegon.	James C. McLaughlin, Muskegon.
SAGINAW COUNTY BAR ASSOCIATION.	Eugene A. Snow, Saginaw.	Henry E. Naegely, Saginaw.

## MINNESOTA.

NAME.	PRESIDENT.	SECRETARY.
<b>Minnesota State Bar Association.</b>	Hiram F. Stevens, St. Paul.	Stiles W. Burr, St. Paul.
<b>BLUE EARTH COUNTY BAR ASSOCIATION.</b>	A. R. Pfair, Mankota.	Jean A. Flittie, Mankota.
<b>MINNEAPOLIS BAR ASSOCIATION.</b>	William H. Norris, Minneapolis.	John T. Baxter, Minneapolis.
<b>RAMSEY COUNTY BAR ASSOCIATION.</b>	Christopher D. O'Brien, St. Paul.	Charles W. Farnham, St. Paul.
<b>RICE COUNTY BAR ASSOCIATION.</b>	Geo. W. Batchelder, Faribault.	A. D. Keyes, Faribault.
<b>SEVENTH JUDICIAL DISTRICT BAR ASSOCIATION.</b>	John W. Mason, Fergus Falls.	Jas. R. Bennett, Jr., St. Cloud.
<b>STEARNS COUNTY BAR ASSOCIATION.</b>	George H. Reynolds, St. Cloud ('99).	J. A. Martin, St. Cloud ('99).
<b>WASHINGTON COUNTY BAR ASSOCIATION.</b>	F. T. Wilson ('98), Stillwater.	A. E. Doe ('98), Stillwater.
<b>WINONA COUNTY BAR ASSOCIATION.</b>	William H. Yale, Winona.	Wm. B. Anderson, Winona.

## MISSISSIPPI.

<b>ABERDEEN BAR ASSOCIATION.</b>	E. O. Sykes, Aberdeen.	Q. O. Eckford, Aberdeen.
<b>ADAMS COUNTY BAR ASSOCIATION.</b>	Wm. C. Martin, Natchez.	James A. Clinton, Natchez.
<b>COLUMBUS BAR ASSOCIATION.</b>	J. A. Orr, Columbus.	Jas. T. Harrison, Columbus.
<b>YAZOO COUNTY BAR ASSOCIATION.</b>	Robert Bowman, Yazoo City.	C. H. Williams, Yazoo City.

## MISSOURI.

NAME.	PRESIDENT.	SECRETARY.
<b>Missouri Bar Association.</b>	W. B. Teasdale, Kansas City.	Vacant.
<b>KANSAS CITY BAR ASSOCIATION.</b>	Samuel W. Moore, Kansas City.	Ellison A. Neal, Kansas City.
<b>BAR ASSOCIATION OF ST. LOUIS.</b>	Jacob Klein, St. Louis.	V. Mott Porter, St. Louis.

## MONTANA.

<b>Montana Bar Association.</b>	T. O. Leary, Anaconda.	Edward C. Russel, Helena.
<b>CASCADE COUNTY BAR ASSOCIATION.</b>	Thomas E. Brady, Great Falls.	H. H. Ewing, Great Falls.
<b>FLATHEAD COUNTY BAR ASSOCIATION.</b>	G. H. Grubb, Kalispell.	D. F. Smith, Kalispell.
<b>HELENA BAR ASSOCIATION.</b>	F. P. Sterling, Helena.	Thos. J. Walsh, Helena.

## NEBRASKA.

<b>Nebraska State Bar Association.</b>	W. D. McHugh, Omaha.	Roscoe Pound, Lincoln.
<b>ADAMS COUNTY BAR ASSOCIATION.</b>	John M. Ragan, Hastings.	J. S. Logan, Hastings.
<b>LANCASTER COUNTY BAR ASSOCIATION.</b>	H. H. Wilson, Lincoln.	S. L. Geisthardt, Lincoln.
<b>OMAHA BAR ASSOCIATION.</b>	T. J. Mahoney, Omaha.	James C. Kinaler, Omaha.

## NEW HAMPSHIRE.

<b>Bar Association of the State of New Hampshire.</b>	Albert S. Bachelor, Littleton.	Arthur H. Chase, Concord.
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## NEW HAMPSHIRE—Continued.

NAME.	PRESIDENT.	SECRETARY.
BELKNAP COUNTY BAR ASSOCIATION.	Charles C. Rogers, Tilton.	Bertram Baisdell, Meredith.
CARROLL COUNTY BAR ASSOCIATION.	Josiah H. Hobbs, Madison.	A. M. Ramery, Ossipee.
GRAFTON AND COÖS BAR ASSOCIATION.	Chester B. Jordan, Lancaster.	Geo. F. Rich, Berlin.
STRAFFORD COUNTY BAR ASSOCIATION.	Daniel Hall, Dover.	Walter W. Scott, Dover.

## NEW JERSEY.

New Jersey State Bar Association.	David J. Pancoast, Camden.	Albert C. Wall, Jersey City.
PROSECUTORS ASSOCIA- TION OF NEW JERSEY.	James S. Erwin, Jersey City.	Nelson Y. Dungan, Somerville.
ATLANTIC COUNTY BAR ASSOCIATION.	Samuel E. Perry, Atlantic City.	Wm. M. Clevenger, Atlantic City.
BERGEN COUNTY BAR ASSOCIATION.	Wm. M. Johnson, Hackensack.	Abram DeBaun, Hackensack.
CAMDEN COUNTY BAR ASSOCIATION.	Benjamin D. Shreve, Camden.	John Meira, Camden.
CUMBERLAND COUNTY BAR ASSOCIATION.	James R. Hoagland, Bridgeton.	George Hampton, Bridgeton.
ESSEX COUNTY BAR AS- SOCIATION.	William B. Guild, Newark.	Charles M. Myers, Newark.
BAR ASSOCIATION OF HUDSON COUNTY.	Charles W. Fuller, Jersey City.	Howard C. Griffiths, Jersey City.
MERCER COUNTY BAR ASSOCIATION.	John T. Bird, Trenton.	Frederick W. Gnichtel, Trenton.
MONMOUTH BAR ASSO- CIATION.	Robt. Allen, Jr., Red Bank.	James Steen, Eatontown.

## NEW JERSEY—Continued.

NAME.	PRESIDENT.	SECRETARY.
BAR ASSOCIATION OF PASSAIC COUNTY.	George S. Hilton, Paterson.	John R. Beam, Paterson.
SOMERSET COUNTY BAR ASSOCIATION.	Charles A. Reed, Plainfield.	Nelson Y. Dungan, Somerville.

## NEW MEXICO TERRITORY.

New Mexico Bar Association.	E. A. Fiske, Santa Fé.	Edward L. Bartlett, Santa Fé.
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## NEW YORK.

New York State Bar Association.	Wm. B. Hornblower, New York.	Frederick E. Wadhams, Albany.
ALBANY COUNTY BAR ASSOCIATION.	William P. Rudd, Albany.	Jacob C. E. Scott, Albany.
AMSTERDAM BAR ASSO- CIATION.	Charles S. Nisbet, V.P., (1900) Amsterdam.	Lawrence A. Serviss, (1900) Amsterdam.
BROOKLYN BAR ASSOCIA- TION.	H. C. M. Ingraham, Brooklyn.	Henry S. Rasquin, Brooklyn.
ERIE COUNTY BAR ASSO- CIATION.	Adelbert Moot, Buffalo.	James L. Quackenbush, Buffalo.
ASS'N OF THE BAR OF THE CITY OF NEW YORK.	John E. Parsons, New York.	Silas B. Brownell, New York.
BAR ASSOCIATION OF THE CITY OF GLOVERS- VILLE.	Nelson H. Anibal, Gloversville.	Jeremiah E. Wood, Gloversville.
ONONDAGA COUNTY BAR ASSOCIATION.	W. P. Goodelle, Syracuse.	Edward H. Burdick, Syracuse.
QUEENS COUNTY BAR AS- SOCIATION.	Harrison S. Moore, Flushing.	Frederick N. Smith, Long Island City.
ROCHESTER BAR ASSO- CIATION.	Charles J. Bissell, Rochester.	James R. Davy, Rochester.

## NEW YORK—Continued.

NAME.	PRESIDENT.	SECRETARY.
ROCKLAND COUNTY BAR ASSOCIATION.	Alonzo Wheeler, Haverham.	George A. Wyre, Nyack.
SCHENECTADY COUNTY BAR ASSOCIATION.	Samuel W. Jackson, Schenectady.	Marvin H. Strong, Schenectady.

## NORTH CAROLINA.

North Carolina Bar Association.	C. M. Busbee, Raleigh.	J. Crawford Biggs, Durham.
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## NORTH DAKOTA.

State Bar Association of North Dakota.	Seth Newman, Fargo.	W. J. Burke, Bathgate.
GRAND FORKS COUNTY BAR ASSOCIATION.	J. H. Bosard, Grand Forks.	Tracy R. Bangs, Grand Forks.

## OHIO.

Ohio State Bar Asso- ciation.	S. S. Wheeler, Lima.	S. W. Bennett, Columbus.
AKRON BAR ASSOCIA- TION.	Horatio T. Wilson, Akron.	Henry M. Hagelbarger, Akron.
ASHLAND COUNTY BAR ASSOCIATION.	H. L. McCray, Ashland.	E. H. Noel, Ashland.
BUTLER COUNTY BAR ASSOCIATION.	Allen Andrews, (1900) Hamilton.	Robert N. Shotts, (1900) Hamilton.
CARROLL COUNTY BAR ASSOCIATION.	Thomas Hayes, Carrollton.	U. C. DeFord, Carrollton.
LAW AND LIBRARY ASSO- CIATION OF CHILLICOTHE.	John C. Entrakin, Chillicothe.	Frank P. Hinton, Chillicothe.
CINCINNATI BAR ASSO- CIATION.	Moses F. Wilson, Cincinnati.	Frank O. Suise, Cincinnati.
CLARK COUNTY BAR AND LAW LIBRARY ASS'N.	James Johnson, Jr., Springfield.	Clem Collins, Springfield.

## OHIO—Continued.

NAME.	PRESIDENT.	SECRETARY.
CLEVELAND BAR ASSOCIATION.	Frank N. Wilcox, Cleveland.	Thomas H. Bushnell, Cleveland.
CRAWFORD COUNTY BAR ASSOCIATION.	L. R. Harris, Bucyrus.	Wallace L. Monnett, Bucyrus.
DARKE COUNTY BAR ASSOCIATION.	C. M. Anderson, Greenville.	S. V. Hartman, Greenville.
FRANKLIN COUNTY BAR ASSOCIATION.	John G. McGaffey, Columbus.	Campbell M. Voorhees, Columbus.
HENRY COUNTY BAR ASSOCIATION.	Martin Knapp, Napoleon.	J. P. Ragan, Napoleon.
JEFFERSON COUNTY BAR ASSOCIATION.	E. E. Erskine, Steubenville.	J. Calvin Minor, Steubenville.
KNOX COUNTY BAR ASSOCIATION.	W. C. Cooper, Mt. Vernon.	W. L. Cary, Jr., Mt. Vernon.
LICKING COUNTY BAR ASSOCIATION.	J. M. Dennis, (1900) Newark.	Chas. W. Seward, (1900) Newark.
LORAIN COUNTY BAR ASSOCIATION.	Chas. W. Johnston, Elyria.	H. W. Ingersoll, Elyria.
MAHONING COUNTY BAR ASSOCIATION.	Thos. W. Sanderson, Youngstown.	M. C. McNabb, Youngstown.
MARION COUNTY BAR ASSOCIATION.	W. Z. Davis, Marion.	W. E. Scofield, Marion.
MIAMI COUNTY BAR ASSOCIATION.	M. H. Jones, Piqua.	C. F. Grosvenor, Troy.
MONTGOMERY COUNTY BAR ASSOCIATION.	Harry L. Munger, Dayton.	Robert R. Nevin, Dayton.
PUTNAM COUNTY BAR ASSOCIATION.	J. J. Moore, Ottawa.	D. C. Long, Ottawa.
RICHLAND COUNTY BAR ASSOCIATION.	S. G. Cummings, (1900) Mansfield.	J. E. LaDow, (1900) Mansfield.

## OHIO—Continued.

NAME.	PRESIDENT.	SECRETARY.
SANDUSKY COUNTY BAR ASSOCIATION.	T. P. Finerock, Fremont.	Basil Meek, Fremont.
SOUTHERN COLUMBIANA COUNTY BAR ASS'N.	P. M. Smith, Wellsville.	Walter B. Hill, East Liverpool.
TOLEDO BAR ASSOCIATION.	Isaac N. Huntsberger, Toledo.	H. W. Frazer, Toledo.
WARREN COUNTY BAR ASSOCIATION.	J. A. Runyan, Lebanon.	George W. Stanley, Lebanon.

## OREGON.

Oregon Bar Association.	C. E. S. Wood, Portland.	A. F. Flegel, Portland.
CLACKAMAS COUNTY BAR ASSOCIATION.	Gordon E. Hayes, Oregon City.	W. S. M'Ren, Oregon City.
MARION COUNTY BAR ASSOCIATION.	B. F. Bonham, Salem.	A. O. Condit, Salem.

## PENNSYLVANIA.

Pennsylvania Bar Association.	Alex. Simpson, Jr., Philadelphia.	William H. Staake, Philadelphia.
ADAMS COUNTY BAR ASSOCIATION.	David McConaughy, Gettysburg.	W. Clarence Sheely, Gettysburg.
ALLEGHENY COUNTY BAR ASSOCIATION.	Robert S. Frazer, Pittsburg.	Albert York Smith, Pittsburg.
ARMSTRONG COUNTY BAR ASSOCIATION.	J. B. Neale, Kittanning.	H. Lee Golden, Kittanning.
LAW ASSOCIATION OF BEAVER COUNTY	Alfred S. Moore, Beaver.	Junius W. McBride, Beaver.
BERKS COUNTY BAR ASSOCIATION.	Jacob S. Livingood, Reading.	Thomas K. Leidy, Reading.
BLAIR COUNTY BAR ASSOCIATION.	Adie H. Stevens, (1900) Tyrone.	Henry A. McFadden, (1900) Hollidaysburg.

## PENNSYLVANIA—Continued.

NAME.	PRESIDENT.	SECRETARY.
BRADFORD COUNTY BAR ASSOCIATION.	R. A. Mercur, Towanda.	Jas. R. Leahy, Towanda.
BUCKS COUNTY BAR ASSOCIATION.	John L. DuBois, Doylestown.	Harvey S. Kiser, Doylestown.
BUTLER COUNTY BAR ASSOCIATION.	L. Z. Mitchell, Butler.	J. D. Marshall, Butler.
CAMBRIA BAR ASSOCIATION.	W. Horace Rose, Johnstown.	H. H. Myers, Ebensburg.
CAMERON COUNTY BAR ASSOCIATION.	J. C. Johnson, Emporium.	C. W. Shafer, Emporium.
CENTRE COUNTY BAR ASSOCIATION.	John G. Love, Bellefonte.	M. I. Gardner, Bellefonte.
CHESTER COUNTY LAW AND MISCELLANEOUS LIBRARY ASSOCIATION.	Wm. M. Hayes, West Chester.	Thomas Lack, West Chester.
CLARION BAR ASSOCIATION.	David Dawson, Clarion.	W. D. Burns, Clarion.
CLEARFIELD COUNTY LAW ASSOCIATION.	Cyrus Gordon, Clearfield.	Benjamin F. Chase, Clearfield.
COLUMBIA COUNTY BAR ASSOCIATION.	John G. Freeze, Bloomsburg.	George E. Elwell, Bloomsburg.
CUMBERLAND COUNTY BAR ASSOCIATION.	Robt. M. Henderson, Carlisle.	Conrad Armbleton, Carlisle.
DAUPHIN COUNTY BAR ASSOCIATION.	Robert Snodgrass, Harrisburg.	William M. Hargest, Harrisburg.
DELAWARE COUNTY BAR ASSOCIATION.	Geo. E. Darlington, Media.	Garnett Pendleton, Chester.
ELK COUNTY BAR ASSOCIATION.	Rufus Lucore, Ridgeway.	E. H. Baird, Ridgeway.
ERIE COUNTY LAW ASSOCIATION.	George A. Allen, Erie.	Henry E. Fish, Erie.

## PENNSYLVANIA—Continued.

NAME.	PRESIDENT.	SECRETARY.
FAYETTE COUNTY BAR ASSOCIATION.	Luke H. Frasher, Uniontown.	Joseph G. Carroll, Uniontown.
FOREST BAR ASSOCIATION.	Samuel D. Irwin, Tionesta.	T. H. Ritchey, Tionesta.
FRANKLIN COUNTY BAR ASSOCIATION.	D. Watson Rowe, Chambersburg.	Loren A. Culp, Chambersburg.
FULTON COUNTY BAR ASSOCIATION.	J. Nelson Sipes, McConnellsburg.	W. Scott Alexander, McConnellsburg.
HUNTINGDON BAR ASSOCIATION.	Vacant.	Jas. S. Woods, Huntingdon.
INDIANA COUNTY LAW ASSOCIATION.	J. N. Banks, Indiana.	S. J. Telford, Indiana.
JEFFERSON COUNTY BAR ASSOCIATION.	W. F. Stewart, Brookville.	N. L. Strong, Brookville.
LACKAWANNA LAW AND LIBRARY ASSOCIATION.	James H. Torrey, Scranton.	Herman Osthaus, Scranton.
LANCASTER BAR ASSOCIATION.	H. M. North, Columbia.	John W. Appel, Lancaster.
LAWRENCE COUNTY BAR ASSOCIATION.	H. K. Gregory, Newcastle.	D. N. Keast, Newcastle.
LEBANON COUNTY BAR ASSOCIATION.	Thomas H. Capp, Lebanon.	Charles M. Zerbe, Lebanon.
LEHIGH COUNTY BAR ASSOCIATION.	Arthur G. DeWalt, Allentown.	Frank Jacobs, Allentown.
LYCOMING LAW ASSOCIATION.	H. C. McCormick, Williamsport.	Addison Candor, Williamsport.
McKEAN COUNTY BAR ASSOCIATION.	B. D. Hamlin, (1900) Smethport.	J. M. McClure, (1900) Bradford.
MIFFLIN COUNTY BAR ASSOCIATION.	D. M. Woods, Lewistown.	M. M. McLaughlin, Lewistown.

## PENNSYLVANIA—Continued.

NAME.	PRESIDENT.	SECRETARY.
MONTGOMERY COUNTY BAR ASSOCIATION.	James Boyd, Norristown.	Wm. F. Dannehower, Norristown.
NORTHAMPTON COUNTY BAR ASSOCIATION.	E. J. Fox, Easton.	Clarence E. Beck, Easton.
NORTHUMBERLAND COUNTY LAW ASSO- CIATION.	W. H. M. Oram, Shamokin.	Harry S. Knight, Sunbury.
PERRY COUNTY BAR AS- SOCIATION.	W. N. Seibert, New Bloomfield.	J. M. Barnett, New Bloomfield.
LAW ASSOCIATION OF PHILADELPHIA.	Samuel Dickson, Philadelphia.	William C. Ferguson, Philadelphia.
LAWYERS' CLUB OF PHILADELPHIA.	Francis Shunk Brown, Philadelphia.	Emanuel Furth, Philadelphia.
POTTER COUNTY BAR AS- SOCIATION.	H. C. Dornan, Coudersport.	A. N. Crandall, Coudersport.
SCHUYLKILL COUNTY BAR ASSOCIATION.	Vacant.	Chas. E. Breckens, Pottsville.
SNYDER COUNTY BAR ASSOCIATION.	A. W. Potter, Selin's Grove.	Jay G. Weiser, Middleburg.
SUSQUEHANNA COUNTY LEGAL ASSOCIATION.	William M. Post, (1900) Montroee.	F. I. Lott, (1900) Montroee.
TIOGA COUNTY BAR AS- SOCIATION.	S. F. Channell, Wellsboro.	Robert K. Young, Wellsboro.
UNION COUNTY BAR AS- SOCIATION.	Andrew A. Leiser, Lewisburg.	W. B. Follmer, Lewisburg.
VENANGO COUNTY BAR ASSOCIATION.	Isaac Ash, Oil City.	N. F. Osmer, Franklin.
WARREN COUNTY BAR ASSOCIATION.	William Schnur, Warren.	E. H. Beshlin, Warren.
WAYNE BAR ASSOCIA- TION.	Henry Wilson, Honesdale.	R. M. Stocker, Honesdale.



## PENNSYLVANIA—Continued.

NAME.	PRESIDENT.	SECRETARY.
WAYNESBURG LAW ASSOCIATION.	J. B. Donley, Waynesburg.	James J. Purman, Waynesburg.
WESTMORELAND LAW ASSOCIATION.	D. S. Atkinson, Greensburg.	J. E. B. Cunningham, Greensburg.
WILKESBARRE LAW AND LIBRARY ASSOCIATION.	Alex. Farnham, Wilkesbarre.	Joseph D. Coons, Wilkesbarre.
WYOMING COUNTY BAR ASSOCIATION.	W. E. Little, Tunkhannock.	E. J. Jorden, Tunkhannock.
YORK COUNTY BAR ASSOCIATION.	Henry C. Niles, York.	Wm. L. Ammon, York.

## RHODE ISLAND.

The Rhode Island Bar Association.	Francis Colwell, Providence.	Wm. A. Morgan, Providence.
PROVIDENCE BAR CLUB.	Dexter B. Potter, Providence.	Lorin M. Cook, Providence.

## SOUTH CAROLINA.

South Carolina Bar Association.	George W. Croft, Aiken.	John P. Thomas, Jr., Columbia.
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## SOUTH DAKOTA.

South Dakota Bar Association.	Thomas Sterling, Redfield.	Jno. H. Voorhees, Sioux Falls.
BEADLE COUNTY BAR ASSOCIATION.	A. W. Burt, Huron.	(Appointed at meetings)
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<b>BAR ASSOCIATION OF THE CITY OF RICHMOND.</b>	W. P. Skelton, Richmond.	John Howard, Richmond.

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<b>MARION COUNTY BAR ASSOCIATION.</b>	W. S. Haymond, Fairmount.	W. H. Conaway, Fairmount.
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## MEMORANDUM OF SUBJECTS REFERRED TO COMMITTEES.

### GENERAL COUNCIL.

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### STANDING COMMITTEES.

#### *Jurisprudence and Law Reform.*

Fellow Servants. (See 1896 Report, page 40.)

Slipshod Legislation. (See 1896 Report, pages 41, 42; 1897 Report, page 67.)

Anti-trust Legislation. (See 1897 Report, page 72; 1900 Report, page 11.)

Revision of U. S. Statutes. (See 1899 Report, pages 84, 85; 1901 Report, pages 39, 46.)

No Report in 1901. (See page 16.)

#### *Commercial Law.*

Amendment of Bankruptcy Law. (See pages 18, 421.)

#### *Obituaries.*

To report names of Deceased Members. (See pages 19, 428.)

#### *Patent, Trade Mark and Copyright Law.*

To secure amendments of Trade Mark Laws. (See 1900 Report, pages 28, 29, 379.)

Uniformity of Decisions. (See 1900 Report, page 43.)

No Report in 1901. (See pages 19, 20.)

### SPECIAL COMMITTEES.

#### *On Classification of the Law.*

No Report in 1898, 1899, 1900 or 1901. (See page 23.)

*On Indian Legislation.*

Further advocating remedial Legislation. (See 1900 Report, pages 31, 32, 381.)

No Report in 1901. (See page 23.)

*On Uniform State Laws.*

To advocate certain approved forms of Acts. (See pages 23, 436.)

*On Federal Code of Criminal Procedure.*

Committee continued. To co-operate with U. S. Commission of Revision. (See pages 24 to 26, 440.)

*On Penal Laws and Prison Discipline.*

To prepare resolution about representation at International Prison Congress. (See pages 28, 29 and 1900 Report, page 34, 400.)

*On Federal Courts.*

To advocate passage of approved bill pending before Congress. (See pages 29, 441.)

*On Industrial Property and International Negotiation.*

No Report in 1901. (See 1900 Report, pages 30, 410; 1901 Report, page 31.)

*On Title to Real Estate.*

To urge remedial Legislation. (See 1900 Report, pages 29, 411.)

No Report in 1901. (See page 31.)

*On Louisiana Purchase Exposition.*

To co-operate with Exposition authorities in promoting Congress of Lawyers and Jurists. (See pages 22, 23, 459.)

## ANNUAL ADDRESSES.

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1880.	CORTLANDT PARKER, . . . . .	Alexander Hamilton and William Paterson.
1881.	CLARKSON N. POTTER, . . . . .	Roger Brooke Taney.
1882.	ALEXANDER R. LAWTON, . . . . .	James Lewis Petigru and Hugh Swinton Legaré.
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1884.	JOHN F. DILLON, . . . . .	American Institutions and Laws.
1885.	GEORGE W. BIDDLE, . . . . .	An Inquiry into the Proper Mode of Trial.
1886.	THOMAS J. SEMMES, . . . . .	The Civil Law and Codification.
1887.	HENRY HITCHCOCK, . . . . .	General Corporation Laws.
1888.	GEORGE HOADLY, . . . . .	Codification.
1889.	SIMEON E. BALDWIN, . . . . .	The Centenary of Modern Government.
1890.	JAMES C. CARTER, . . . . .	The Ideal and the Actual in the Law.
1891.	ALFRED RUSSELL, . . . . .	Avoidable Causes of Delay and Uncertainty in our Courts.
1892.	J. RANDOLPH TUCKER, . . . . .	British Institutions and American Constitutions.
1893.	HENRY B. BROWN, . . . . .	The Distribution of Property.
1894.	MOORFIELD STOREY, . . . . .	The American Legislature.
1895.	WILLIAM H. TAFT, . . . . .	Recent Criticism of the Federal Judiciary.
1896.	LORD RUSSELL OF KILLOWEN, Lord Chief Justice of England,	International Law and Arbitration.
1897.	JOHN W. GRIGGS, . . . . .	Lawmaking.
1898.	JOSEPH H. CHOATE, . . . . .	Trial by Jury.
1899.	WILLIAM LINDSAY, . . . . .	Power of the United States to Acquire and Govern Foreign Territory.
1900.	GEORGE R. PECK, . . . . .	The March of the Constitution.
1901.	CHARLES E. LITTLEFIELD, . . . . .	The Insular Cases.

## PAPERS READ.

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1879.	CALVIN G. CHILD, . . . . .	Shifting Uses, from the Standpoint of the Nineteenth Century.
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1879.	GEORGE A. MEROSE, . . . . .	The Relationship of Law and National Spirit.
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1880	GEORGE TUCKER BISPHAM, . .	Rights of Material Men and Employees of Railroad Companies as against Mortgagees.
1880.	HENRY D. HYDE, . . . . .	Extradition between the States.
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1882.	U. M. ROSE, . . . . .	Titles of Statutes.
1882.	THOMAS J. SEMMES, . . . . .	The Civil Law as Transplanted in Louisiana.
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1883.	JOHN M. SHIRLEY, . . . . .	The Future of our Profession.
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1894.	CHARLES CLAPLIN ALLEN, . . .	Injunction and Organized Labor.
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## SECTION OF LEGAL EDUCATION.

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1893.	AUSTIN ABBOTT, . . . . .	Existing Questions of Legal Education.
1893.	SAMUEL WILLISTON, . . . . .	Legal Education.
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1895.	NATHAN S. DAVIS, . . . . .	The Importance of the Study of Medical Jurisprudence by Students of Law, and the Extent to which it should be Taught in Schools and Colleges for the Education of such Students.

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1901.	CLARENCE D. ASHLEY, . . . .	Legal Education and Preparation Therefor.
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1901.	HARRY SANGER RICHARDS, . .	Shall Law Schools Give Credit for Office Study?
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1899.	E. B. SHERMAN, . . . . .	Masters in Chancery.
1899.	ARTHUR STEUART, . . . . .	What Constitutes Invention in the Sense of the Patent Law.
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1900.	LYSANDER HILL, . . . . .	Unfair Competition in Trade.
1900.	ARTHUR STEUART, . . . . .	Copyright for Design.

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